

General Services Administration
Washington, DC 20405

APD 2800.12B, CHGE 22
August 8, 2008

GSA ORDER

Subject: Amendment 2008-01; GSAR Case 2006-G505; Rewrite of
GSAR Part 522, Application of Labor Laws to
Government Acquisitions (Change 22)

1. Purpose. This order transmits a revision to the General
Services Administration Acquisition Manual (GSAM).

2. Background.

a. The General Services Administration (GSA) has undertaken a comprehensive review of the GSAM in order to update it and make it consistent with the Federal Acquisition Regulation (FAR). For the purposes of this rewrite, the Law and Small Business Team was tasked on August 4, 2006 with rewriting GSAM Part 522, Application of Labor Laws to Government Acquisitions. The team's report was completed on September 1, 2006. To ensure completeness, internal comments were solicited and received from GSA Regions 1, 2, 3, 6, 7, 8, 10, 11, NCR, OGC, and OIG. This order reconciles the conclusions from the team report with the internal comments.

b. This order revises GSAM Part 522, by: deleting sections that duplicate FAR language (*i.e.*, GSAM 522.1007, Questions concerning applicability of the Act, is being deleted because the substance of the section is sufficiently addressed in FAR 22.1007); adding information and revising or removing language, in certain sections, to ensure structural and grammatical consistency (*i.e.*, the word "you" was replaced with "contracting officer" throughout the part); adding new sections, where appropriate, to supplement the FAR (*i.e.*, 522.406-10, Disposition of dispute concerning construction contract labor standards enforcement, is being added to supplement FAR 22.406-10 to ensure that the agency labor advisor is informed of disputes concerning construction contract labor standards); and deleting obsolete sections and language in sections to eliminate the potential for conflict or misunderstanding in the GSAM with the FAR requirements (*i.e.*, the language in GSAM 522.406-6, Payrolls and statements, is being substantially revised to delete the requirement for the use of GSA Form 618D, and to delete language requiring statements from prime contractors or subcontractors that personally perform work, because the

form and the language conflict with the Davis Bacon Act and FAR 22.406-61.) This order does not include substantive changes to the policies in GSAM Part 522.

c. GSAM Part 522 covers GSA general policies and procedures regarding contractor labor relations as they pertain to the Federal acquisition process, as prescribed by the Federal Acquisition Regulation (FAR) Part 22.

d. GSA published GSAR Case 2006-G505, final rule, in the *Federal Register* at 73 FR 46202, August 8, 2008, and a Correction at 73 FR 49616, August 22, 2008.

3. Effective date. August 8, 2008.

4. Explanation of changes. This GSAM Part coverage replaces the current GSAM Part 522 and removes GSA form 618D.

5. Filing Instructions. Insert the following pages to the GSAM.

Remove pages

General Structure
pp. v and vi

Part 522 TOC
pp. 522-i and 522-ii

522-1 thru 522-4

Part 553 TOC
pp. 553-i and 553-ii

553-11 and 553-12

Insert pages

General Structure
pp. v and vi

Part 522 TOC
pp. 522-i and 522-ii

522-1 thru 522-4

Part 553 TOC
pp. 553-i and 553-ii

553-11 and 553-12



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PART 521—[RESERVED]

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PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

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PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

522.001 Definition.

“Agency labor advisor,” as used in this part, means the Director of the Contract Policy Division (VPC) within the Office of the Chief Acquisition Officer (OCAO).

Subpart 522.1—Basic Labor Policies

522.101 Labor relations.

522.101-1 General.

The Office of General Counsel (OGC) and the agency labor advisor shall—

- (a) Serve as the GSA points of contact on all contractor labor relations matters;
- (b) Initiate contact on contractor labor relations matters with national offices of labor organizations, Government departments, agencies or other governmental organizations. Contracting offices shall notify OGC and the agency labor advisor when they are contacted by such external organizations;
- (c) Serve as a clearinghouse for information on labor laws applicable to Government acquisitions; and
- (d) Respond to questions involving FAR Part 22, Application of Labor Laws to Government Acquisitions, or other contractor labor relations matters concerning GSA acquisition programs. OGC determines the agency’s legal position.

522.101-3 Reporting labor disputes.

Written reports of contractor labor disputes shall be submitted to the agency labor advisor as soon as the circumstances surrounding a labor dispute are identified. Include in the report a description of the following: the nature of the labor dispute; location of the dispute and contracts affected; the potential or actual impact of the dispute on GSA operations or programs; and any actions taken to reduce the impact. The agency labor advisor will notify other GSA contracting offices that may be affected, and will determine further actions to be taken.

522.103 Overtime.

522.103-4 Approvals.

The contracting officer is the “agency approving official” under FAR 22.103-4.

522.103-5 Contract clauses.

Insert FAR 52.222-1, Notice to the Government of Labor Disputes, in solicitations and contracts for DX rated orders under the Defense Priorities and Allocations System (DPAS). Information on the DPAS can be found at FAR Subpart 11.6, Priorities and Allocations.

Subpart 522.3—Contract Work Hours and Safety Standards Act

522.302 Liquidated damages and overtime pay.

- (a) *Contracting officer’s responsibilities.* (1) Provide instructions to the appropriate Finance Office whether to withhold funds from contract payments pending final administrative determination.
 - (2) Notify the Finance Office of your final decision to assess liquidated damages.
 - (3) After final decision, provide instructions to either immediately release to the contractor any funds in excess of the amount specified in your decision or initiate the collection of additional funds (see paragraph (c) of this section).
 - (4) Advise the contractor in writing of any decision to withhold funds, including the reasons for the withholding, and the amount held to satisfy the contractor’s liability for unpaid wages and liquidated damages. Coordinate all written communications with the contractor, including the notification of dispute resolution procedures under the Department of Labor’s regulations at 29 CFR Parts 4 through 8, with the Office of Regional Counsel.
- (b) *Procedures for the collection of liquidated damages.*
 - (1) Initiate collection action by either:
 - (i) Withholding funds from payments due on the contract.
 - (ii) Issuing a demand for payment, if no funds were withheld or the amount withheld was less than the liquidated damages.
 - (2) Indicate in the demand letter the intent to offset from the contractor’s other Government contracts if payment is not made.
 - (3) Provide the Finance Office with a:
 - (i) Copy of the demand letter.
 - (ii) Request that it initiate collection action under 41 CFR Part 105-55, Collection of Claims Owed the United States, if payment is not made in accordance with the demand letter.
 - (c) Consult the GSA Delegations of Authority Manual, ADM P 5450.39C, to determine who the agency head is for purposes of FAR 22.302(c) (Chapters 13(2)(f) and 17(5)(a)).

Subpart 522.4—Labor Standards for Contracts Involving Construction

522.404 Davis-Bacon Act wage determinations.

522.404-6 Modifications of wage determinations.

The contracting director shall serve as the agency head for purposes of requesting extensions under FAR 22.404-6(b)(6).

522.406 Administration and enforcement.

522.406-6 Payrolls and statements.

Weekly payrolls and statements of compliance with respect to payment of wages are not required from a prime contractor or a subcontractor that personally performs work.

522.406-7 [Reserved]

522.406-8 Investigations.

(a) If a compliance check uncovers information of possible violations, the contracting officer shall consult with OGC and, if warranted, submit a request to the appropriate Office of the Inspector General Field Office under FAR 22.406-8(a).

(b) The contracting officer shall consult the GSA Delegations of Authority Manual, ADM P 5450.39C, (Chapters 13(2)(f) and 17(5)(a)), to determine who the agency head is for purposes of FAR 22.406-8(d).

522.406-9 Withholding from or suspension of contract payments.

Contracting officers shall follow the procedures in [522.302](#) in order to assess liquidated damages.

522.406-10 Disposition of disputes concerning construction contract labor standards enforcement.

Submit the information required by FAR 22.406-10(d) to the Administrator, Wage and Hour Division, Department of Labor and submit a copy to the agency labor advisor.

522.406-11 Contract terminations.

When a contract or subcontract is terminated for labor standards violations, the contracting officer shall submit the report required by FAR 22.406-11 to the Administrator, Wage and Hour Division, Department of Labor and submit a copy to the agency labor advisor.

522.406-13 Semiannual enforcement reports.

(a) PBS and FAS shall report through the Commissioners the semiannual enforcement reports required by FAR 22.406-13, in the format described in paragraph (d) of this section. The Commissioner will consolidate the regional and central office information and submit the report to the agency

labor advisor, Office of the Chief Acquisition Officer. The report must identify the service submitting the report and the name, phone number, and email address of the official responsible for preparing the report.

(b) Central Office Contracting Offices outside of FAS and PBS must submit the reports directly to the agency labor advisor. Each report must identify the contracting office and the name, phone number, and e-mail address of the official responsible for preparing the report.

(c) The reports from the FAS and PBS and Central Office Contracting Offices must be submitted to the agency labor advisor within 15 calendar days after the end of the reporting periods. The ALA will consolidate the reports and submit an official agency report to the:

U.S. Department of Labor (DOL)
Wage and Hour Division
Office of Enforcement Policy
Government Contracts Team
Room S3018
200 Constitution Avenue, N.W.
Washington, DC 20210
E-Mail Address: *osp@fenix2.dol-esa.gov*.

(d) The official agency report shall include only the compliance or enforcement of the labor standards requirements for the time periods specified in FAR 22.406-13, and identify the responsible agency official, title, address, phone number, and email address. The report shall be submitted to DOL within 30 calendar days after the end of the reporting periods using the following instructions and format:

SEMI-ANNUAL ENFORCEMENT REPORT

FY ____

1. Enter the beginning and ending dates of the period covered by the semiannual report. _____
2. Enter the total number of prime contracts awarded subject to Davis-Bacon Act or the Contract Work Hours and Safety Standards Act awarded during the period covered by this report. _____
3. Enter the total dollar value of the contracts listed on line 2. _____
4. Enter the total number of contractors/subcontractors against whom complaints were received.

5. Enter the total number of investigations completed.

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6. Enter the total number of contractors/subcontractors found in violation as a result of the investigations reported on line 5. _____

7. Enter the total amount of back wages determined due employees by contractors/subcontractors under the:

a) Davis-Bacon Act (prevailing wage violations).

b) Contract Work Hours and Safety Standards Act (overtime violations). _____

8. Enter the total amount of back wages paid employees by contractors/subcontractors reported on line 6, for the:

a) Davis-Bacon Act (prevailing wage violations).

b) Contract Work Hours and Safety Standards Act (overtime violations). _____

9. Enter the total number of employees paid wage restitution as reported on line 8, under the Davis-Bacon Act and/or Contract Work Hours and Safety Standards Act. _____

10. Enter the amount of liquidated damages assessed as a result of violations under the Contract Work Hours and Safety Standards Act. _____

Remarks: (Enter any explanation or comment considered necessary for proper understanding of the report.)

Subpart 522.6—Walsh-Healey Public Contracts Act

522.608 Procedures.

Before notifying or furnishing information to DOL under FAR 22.608(b), coordinate with legal counsel.

Subpart 522.8—Equal Employment Opportunity

522.803 Responsibilities.

Contracting officers should submit questions on the applicability of EO 11246 and implementing regulations to assigned legal counsel.

522.804 Affirmative action programs.

522.804-1 Nonconstruction.

(a) The requirements of FAR 22.804 also apply to each contractor and subcontractor with 50 or more employees that either:

(1) Serves as a depository of Government funds; or

(2) Is a financial institution serving as an issuing and paying agent for U.S. savings bonds and savings notes.

(b) The contractors, subcontractors, and financial institutions described in 522.804-1(a) must develop a written affirmative action compliance program for each of its establishments regardless of the contract or holding value, in accordance with 41 CFR 60-1.40.

522.804-2 Construction.

Goals for the employment of minorities and women in the construction industry are established by the Director, Office of Federal Contract Compliance Programs (OFCCP), Department of Labor. The current goal for the utilization of women is 6.9%, regardless of the location of the Federal contract. This goal was extended indefinitely by the Department of Labor in 1980. The current goals for minority participation vary by location and are listed in Appendix E of DOL's "Technical Assistance Guide for Federal Construction Contractors." This guide can be accessed at <http://www.dol.gov/esa/ofccp/TAGuides/ctaguide.htm>.

522.805 Procedures.

(a) To determine whether the contract meets the threshold in FAR 22.805(a), contracting officers shall include the value of the basic contract plus priced options. A contract modification exercising a priced option is not a contract award under FAR 22.805(a)(1)(ii) and does not require a preaward clearance.

(b) Contracting officers shall submit preaward clearance requests directly to the appropriate OFCCP regional office. A list of these offices can be found at <http://www.dol.gov/esa/contacts/ofccp/ofcpkeyp.htm>.

(c) The EEO poster required by FAR 22.805(b) can be found at: <http://www.dol.gov/esa/regs/compliance/posters/pdf/eeopost.pdf>. In addition to providing this poster to each non-exempt contractor, the contracting officer shall advise contractors to complete the Employer Information Report (EEO-1) at <http://www.eeoc.gov/eo1survey/index.html>.

522.807 Exemptions.

The agency labor advisor submits a request for exemption.

**Subpart 522.10—Service Contract Act
of 1965, As Amended**

522.1003 Applicability.

522.1003-3 Statutory exemptions.

The Service Contract Act of 1965, as amended, applies to local office relocation moves if transportation costs are incidental to the principal purpose of the contract. Such contracts do not meet the statutory exemption cited in FAR 22.1003-3(c).

**522.1003-4 Administrative limitations, variations,
tolerances, and exemptions.**

Contracting officers shall coordinate with assigned legal counsel before submitting a request under FAR 22.1003-4(a) to the agency labor advisor.

522.1003-7 Questions concerning applicability of the Act.

The contracting officer may submit a question regarding the applicability of the Act to assigned legal counsel. If the question cannot be answered, the agency labor advisor will forward it to the Administrator, Wage and Hour Division.

522.1021 Requests for hearing.

Contracting Officers who are considering requesting a substantial variance should coordinate with assigned legal counsel and the agency labor advisor. The agency labor advisor submits any request.

**Subpart 522.13—Special Disabled Veterans,
Veterans of the Vietnam Era, and Other
Eligible Veterans**

522.1305 Waivers.

Submit each waiver request to the agency labor advisor. The agency labor advisor forwards the request to the appropriate office for concurrence and approval.

522.1308 Complaint procedures.

After consultation with OGC, the contracting officer shall forward complaints to the cognizant Department of Labor office, with a copy to the agency labor advisor and the appropriate Office of Inspector General Field Office.

**Subpart 522.14—Employment of Workers
With Disabilities**

522.1403 Waivers.

Submit each waiver request to the agency labor advisor. The agency labor advisor forwards the request to the appropriate office for concurrence and approval.

522.1406 Complaint procedures.

After consultation with OGC, forward complaints to the cognizant OFCCP office, with a copy to the agency labor advisor and the appropriate Office of Inspector General Field Office.

**Subpart 522.15—Prohibition of Acquisition
of Products Produced by Forced or
Indentured Child Labor**

**522.1503 Procedures for acquiring end products on the
List of Products Requiring Contractor Certification as
to Forced or Indentured Child Labor.**

Refer matters for investigation under FAR 22.1503(e) to the appropriate Office of Inspector General Field Office.

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PART 553—FORMS

Sec.

Subpart 553.1—General

- 553.101 Requirements for use of forms.
- 553.102 Current editions.
- 553.170 Establishing and revising GSA Forms.

Subpart 553.3—Illustrations of Forms

- 553.300 Scope of subpart.
- 553.300-70 Forms not illustrated.
- 553.370-300-I Instructions for using the GSA Form 300, Order for Supplies and Services.
- 553.370-353-I Instructions for completing GSA Form 353, Performance Evaluation & Facilities Report (PEFR)
- 553.370-618D [Removed]
- 553.370-1378 GSA Form 1378, Record of, and Receipt for, Bids and Responses.
- 553.370-1458 GSA Form 1458, Motor Vehicle Shop Work Order, Repair and Purchase Order.
- 553.370-1535A GSA Form 1535A, Recommendation for Award(s) (Continuation).
- 553.370-1602 GSA Form 1602, Notice Concerning Solicitation.
- 553.370-1678 GSA Form 1678, Status Report of Orders and Shipments.

- 553.370-1720 GSA Form 1720, Request for Release of Classified Information to U.S. Industry.
- 553.370-1766 GSA Form 1766, Structured Approach Profit/Fee Objective.
- 553.370-2689 GSA Form 2689, Procurement Not Set Aside.
- 553.370-2728 GSA Form 2728, Procurement Contract Register.
- 553.370-3186 GSA Form 3186, Order for Supplies or Services.
- 553.370-3186B GSA Form 3186B, Order for Supplies or Services (EDI).
- 553.370-3410 GSA Form 3410, Request for Appointment.
- 553.370-3471 GSA Form 3471, Abstract of Offers.
- 553.370-3521 Blanket Purchase Agreement.
- 553.370-3577 GSA Form 3577, Notice to Unsuccessful Offeror of Contract Award.
- 553.370-3611 GSA Form 3611, Cover Page Source Selection Information.
- 553.370-8002A GSA Form 8002A, Motor Vehicle Requisition Status.
- 553.370-8002B GSA Form 8002B, Motor Vehicle Delivery Order.

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PART 553—FORMS

553.370-618D [Removed]

[GSA Form 618D has been removed.]

553.370-1378 GSA Form 1378, Record of, and Receipt for, Bids and Responses.

RECORD OF, AND RECEIPT FOR, BIDS AND RESPONSES	REGION	NUMBER OF RESPONSES RECEIVED	INVITATION NUMBER	
	O P E N I N G			
	TIME	A.M. P.M.	DATE	
NAMES AND ADDRESSES OF RESPONDENTS			TIME AND DATE RECEIVED	
1.			TIME	DATE
2.				
3.	[514.401(a)(4)]			
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				
I received _____ bids and responses from the bid custodian.				
(Number)				
BID OPENING OFFICIAL (Signature)		TITLE		DATE AND TIME
GENERAL SERVICES ADMINISTRATION			GSA FORM 1378 (REV. 7-75)	