

Federal Acquisition Regulation

22.1102

withheld funds remains the final action necessary to close out a contract.

[54 FR 19816, May 8, 1989, as amended at 61 FR 39198, July 26, 1996; 72 FR 63081, Nov. 7, 2007; 79 FR 24207, Apr. 29, 2014; 83 FR 42573, Aug. 22, 2018]

22.1023 Termination for default.

As provided by the Service Contract Labor Standards statute, any contractor failure to comply with the requirements of the contract clauses related to the Service Contract Labor Standards statute may be grounds for termination for default (see paragraph (k) of the clause at 52.222-41, Service Contract Labor Standards).

[79 FR 24207, Apr. 29, 2014]

22.1024 Cooperation with the Department of Labor.

The contracting officer shall cooperate with Department of Labor representatives in the examination of records, interviews with service employees, and all other aspects of investigations undertaken by the Department. When asked, agencies shall furnish the Wage and Hour Administrator or a designee, any available information on contractors, subcontractors, their contracts, and the nature of the contract services. The contracting officer shall promptly refer, in writing to the appropriate regional office of the Department, apparent violations and complaints received. Employee complaints shall not be disclosed to the employer.

22.1025 Ineligibility of violators.

Persons or firms found to be in violation of the Service Contract Labor Standards statute will have an active exclusion record contained in the System for Award Management (see 9.404). No Government contract may be awarded to any violator so listed because of a violation of the Service Contract Labor Standards statute, or to any firm, corporation, partnership, or association in which the violator has a substantial interest, without the approval of the Secretary of Labor. This prohibition against award to an ineli-

gible contractor applies to both prime and subcontracts.

[54 FR 19816, May 8, 1989, as amended at 60 FR 33066, June 26, 1995; 69 FR 76349, Dec. 20, 2004; 78 FR 37679, June 21, 2013; 79 FR 24207, Apr. 29, 2014; 83 FR 48697, Sept. 26, 2018]

22.1026 Disputes concerning labor standards.

Disputes concerning labor standards requirements of the contract are handled under paragraph (t) of the contract clause at 52.222-41, Service Contract Labor Standards, and not under the clause at 52.233-1, Disputes.

[54 FR 19816, May 8, 1989, as amended at 61 FR 39198, July 26, 1996; 72 FR 63081, Nov. 7, 2007; 79 FR 24207, Apr. 29, 2014]

Subpart 22.11—Professional Employee Compensation

22.1101 Applicability.

The Service Contract Act of 1965, now codified at 41 U.S.C. chapter 67, Service Contract Labor Standards, was enacted to ensure that Government contractors compensate their blue-collar service workers and some white-collar service workers fairly, but it does not cover bona fide executive, administrative, or professional employees.

[79 FR 24207, Apr. 29, 2014]

22.1102 Definition.

Professional employee, as used in this subpart, means any person meeting the definition of *employee employed in a bona fide . . . professional capacity* given in 29 CFR part 541. The term embraces members of those professions having a recognized status based upon acquiring professional knowledge through prolonged study. Examples of these professions include accountancy, actuarial computation, architecture, dentistry, engineering, law, medicine, nursing, pharmacy, the sciences (such as biology, chemistry, and physics), and teaching. To be a professional employee, a person must not only be a professional but must be involved essentially in discharging professional duties.

[48 FR 42258, Sept. 19, 1983, as amended at 66 FR 2130, Jan. 10, 2001]