

Dated: March 7, 2007.

**Shay D. Assad,**

*Director, Defense Procurement and Acquisition Policy.*

Dated: March 14, 2007.

**Roger D. Waldron,**

*Acting Senior Procurement Executive, General Services Administration.*

Dated: March 7, 2007.

**Tom Luedtke,**

*Assistant Administrator for Procurement, National Aeronautics and Space Administration.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 4, 22, 47, 52, and 53

[FAC 2005-16; FAR Case 2005-033; Item I; Docket 2007-0001, Sequence 1]

RIN 9000-AK47

#### Federal Acquisition Regulation; FAR Case 2005-033; Implementation of Wage Determinations OnLine (WDOL)

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to adopt the interim rule published in the **Federal Register** at 71 FR 36930, June 28, 2006, as a final rule without change. This final rule amends the Federal Acquisition Regulation (FAR) to implement the Wage Determinations OnLine (WDOL) Internet website as the source for Federal contracting agencies to obtain wage determinations issued by the Department of Labor (DOL) for service contracts subject to the McNamara-O'Hara Service Contract Act (SCA) and for construction contracts subject to the Davis-Bacon Act (DBA).

**DATES:** Effective Date: March 22, 2007.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775 for clarification of content. Please cite FAC 2005-16, FAR case 2005-033. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 71 FR 36930, June 28, 2006. The interim rule amended FAR Part 22 to implement Wage Determinations Online (WDOL) Internet Website (<http://www.wdol.gov>) as the source for Federal contracting agencies to obtain wage determinations issued by the Department of Labor (DOL) for service contracts subject to the Service Contract Act (SCA) and for construction contracts subject to the Davis-Bacon Act (DBA). The rule incorporated new geographical jurisdictions for DOL's Wage and Hour Regional Offices and eliminated FAR references to the Government Printing Office (GPO) publication of general wage determinations.

The interim rule eliminated the requirement for the contracting officer to submit a copy of collective bargaining agreements (CBAs) to the DOL for the purpose of obtaining a wage determination under Section 4(c) of the SCA, unless directed by the DOL to do so. The rule also deleted the FAR clause at 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA), because the WDOL process makes it unnecessary. Additionally, the rule revised FAR clause 52.222-49, Service Contract Act—Place of Performance Unknown, to make conforming changes to FAR references, and deleted Standard Forms 98, 98a, and 99 from FAR Part 53 in their entirety.

*Comment.* In response to the interim rule, one comment was received. The commenter was concerned with the risk of issuing the most current wage determination and allowing offerors to amend their proposal after the source selection decision is made but prior to award, noting the possible impact on the proposed price and source selection decision. The commenter recommended revising the language for contracting by negotiation in FAR 22.1012-1(c) to be similar to contracting for sealed bidding or allow the contracting officer to incorporate a wage determination after award similar to the language provided in FAR clause 52.222-30, Davis Bacon Act—Price Adjustment (None or Separately Specified Method).

The Councils considered the comment to be outside the scope of the rule and referred the comment to the Department of Defense Labor Committee for their review and input. Therefore, the councils have agreed to implement

the interim rule as written without changes.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule involves internal Government processes between the DOL and Federal contracting agencies. During the design phase of WDOL.gov, the WDOL Task Force coordinated with a number of labor organizations, contractors, the Contract Services Association, and various Federal contracting agencies to address and satisfy any concerns about the effect of the rule on all interested parties, including small entities. The only comment received on the interim rule was determined to be outside the scope of the rule.

##### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Parts 4, 22, 47, 52, and 53

Government procurement.

Dated: March 15, 2007.

**Ralph De Stefano,**

*Director, Contract Policy Division.*

#### Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 4, 22, 47, 52, and 53, which was published in the **Federal Register** at 71 FR 36930, June 28, 2006, is adopted as a final rule without change.

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