

Subpart 22.6 - Contracts for Materials, Supplies, Articles, and Equipment

Parent topic: [Part 22 - Application of Labor Laws to Government Acquisitions](#)

22.601 [Reserved]

22.602 Statutory requirements.

Except for the exemptions at [22.604](#), all contracts subject to [41 U.S.C. chapter 65](#), (the statute), and entered into by any executive department, independent establishment, or other agency or instrumentality of the *United States*, or by the District of Columbia, or by any corporation (all the stock of which is beneficially owned by the *United States*) for the manufacture or furnishing of materials, *supplies*, articles, and equipment (referred to in this subpart as *supplies*) in any amount exceeding \$20,000, *shall* include or incorporate by reference the stipulations required by the statute pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

22.603 Applicability.

The requirements in [22.602](#) apply to contracts (including for this purpose, indefinite-delivery contracts, basic ordering agreements, and blanket purchase agreements) and subcontracts under Section 8(a) of the Small Business Act, for the manufacture or furnishing of *supplies* that-

- (a) Will be performed in the *United States*, Puerto Rico, or the U.S. Virgin Islands;
- (b) Exceed or *may* exceed \$20,000; and
- (c) Are not exempt under [22.604](#).

22.604 Exemptions.

22.604-1 Statutory exemptions.

Contracts for *acquisition* of the following *supplies* are exempt from the statute:

- (a) Any item in those situations where the *contracting officer* is authorized by the express language of a statute to purchase "in the open market" generally (such as *commercial products* and *commercial services*, see [part 12](#)); or where a specific purchase is made under the conditions described in [6.302-2](#) in circumstances where immediate delivery is required by the public exigency.
- (b) Perishables, including dairy, livestock, and nursery *products*.

(c) Agricultural or farm *products* processed for first sale by the original producers.

(d) Agricultural commodities or the *products* thereof purchased under contract by the Secretary of Agriculture.

22.604-2 Regulatory exemptions.

(a) Contracts for the following *acquisitions* are fully exempt from the statute (see 41 CFR50-201.603):

(1) Public utility services.

(2) *Supplies* manufactured outside the *United States*, Puerto Rico, and the U.S. Virgin Islands.

(3) Purchases against the account of a defaulting contractor where the stipulations of the statute were not included in the defaulted contract.

(4) Newspapers, magazines, or periodicals, contracted for with sales agents or publisher representatives, which are to be delivered by the publishers thereof.

(b)

(1) Upon the request of the *agency head*, the Secretary of Labor *may* exempt specific contracts or classes of contracts from the inclusion or application of one or more of the Act's stipulations; provided, that the request includes a finding by the *agency head* stating the reasons why the conduct of Government business will be seriously impaired unless the exemption is granted.

(2) Those requests for exemption that relate solely to safety and health standards *shall* be transmitted to the-

Assistant Secretary for Occupational Safety and Health U.S. Department of Labor Washington, DC 202 10.

All other requests *shall* be transmitted to the-

Administrator of the Wage and Hour Division U.S. Department of Labor Washington, DC 202 10.

22.605 Rulings and interpretations of the statute.

(a) As authorized by the Act, the Secretary of Labor has issued rulings and interpretations concerning the administration of the statute (see 41 CFR50-206). The substance of certain rulings and interpretations is as follows:

(1) If a contract for \$20,000 or less is subsequently modified to exceed \$20,000, the contract becomes subject to the statute for work performed after the date of the modification.

(2) If a contract for more than \$20,000 is subsequently modified by mutual agreement to \$20,000 or less, the contract is not subject to the statute for work performed after the date of the modification.

(3) If a contract awarded to a prime contractor contains a provision whereby the prime contractor is made an agent of the Government, the prime contractor is required to include the stipulations of the statute in contracts in excess of \$20,000 awarded for and on behalf of the Government for *supplies* that are to be used in the *construction* and equipment of Government facilities.

(4) If a contract subject to the statute is awarded to a contractor operating Government-owned facilities, the stipulations of the statute affect the employees of that contractor the same as employees of contractors operating privately owned facilities.

(5) Indefinite-delivery contracts, including basic ordering agreements and blanket purchase agreements, are subject to the statute unless it can be determined in advance that the aggregate amount of all orders estimated to be placed thereunder for 1 year after the effective date of the agreement will not exceed \$20,000. A determination *shall* be made annually thereafter if the contract or agreement is extended, and the contract or agreement modified if necessary.

(b) [Reserved]

22.606 [Reserved]

22.607 [Reserved]

22.608 Procedures.

(a) *Award*. When a contract subject to the statute is awarded, the *contracting officer*, in accordance with regulations or instructions issued by the Secretary of Labor and individual agency procedures, *shall* furnish to the contractor DOL publication WH-1313, Notice to Employees Working on Government Contracts.

(b) *Breach of stipulation*. In the event of a violation of a stipulation required under the statute, the *contracting officer shall*, in accordance with agency procedures, notify the appropriate regional office of the DOL, Wage and Hour Division (see 29 CFR Part 1, Appendix B), and furnish any information available.

22.609 [Reserved]

22.610 Contract clause.

The *contracting officer shall* insert the clause at 52.222-20, Contracts for Materials, *Supplies*, Articles, and Equipment, in *solicitations* and contracts covered by the statute (see 22.603, 22.604, and 22.605).