

NMCARS PART 5222 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

[SUBPART 5222.1—BASIC LABOR POLICIES](#)

[5222.101 Labor relations.](#)

[5222.101-1 General.](#)

[5222.101-3 Labor Disputes.](#)

[5222.102-2 Administration.](#)

[5222.103 Overtime.](#)

[5222.103-4 Approvals.](#)

[5222.103-90 Exceptions.](#)

[SUBPART 5222.3—CONTRACT WORK HOURS AND SAFETY STANDARDS ACT](#)

[5222.302 Liquidated damages and overtime pay.](#)

[SUBPART 5222.4—LABOR STANDARDS FOR CONTRACTS INVOLVING](#)

[5222.406 Administration and enforcement.](#)

[5222.406-1 Policy.](#)

[5222.406-8 Investigations.](#)

[SUBPART 5222.10—SERVICE CONTRACT LABOR STANDARDS](#)

[5222.1006 Solicitation provisions and contract clauses.](#)

[SUBPART 5222.11— PROFESSIONAL EMPLOYEE COMPENSATION](#)

[5222.1103 Policy, procedures, and solicitation provision.](#)

[SUBPART 5222.70—RESTRICTIONS ON THE EMPLOYMENT OF PERSONNEL FOR WORK ON CONSTRUCTION AND SERVICE CONTRACTS IN NONCONTIGUOUS STATES](#)

[5222.7003 Waivers.](#)

[SUBPART 5222.74—RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS](#)

[5222.7404 Waiver.](#)

[SUBPART 5222.90— DEPARTMENT OF THE NAVY NON-CONSTRUCTION CONTRACTS CONTAINING CONSTRUCTION WORK](#)

[5222.9000 Department of the Navy non-construction contracts containing construction work.](#)

PART 5222 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

SUBPART 5222.1—BASIC LABOR POLICIES

5222.101 Labor relations.

5222.101-1 General.

(a) Contracting officer shall notify the Navy Labor Advisor of all major issues regarding contract labor standards application, administration, or enforcement. Contracting Officers shall coordinate with the Navy Labor Advisor responses to inquiries from, and other contacts with, national or international offices of contractor or industrial associations, labor unions, or Federal agencies (other than routine contacts with the DOL). Contracting Officers, who receive a non-routine inquiry

involving DON contractor industrial labor relations policies or procedures, or who is confronted with an industrial labor relations matter not covered by SECNAVINST 4200.36A, shall coordinate with the Navy Labor Advisor before responding or taking independent action. Submit questions to the Navy Labor Advisor in DASN(AP) by email at NavyLaborAdvisor@navy.mil, except for questions involving the application of contract labor standards to NAVFACENGCOM contracts. Questions concerning labor issues on NAVFACENGCOM contracts should be submitted to the labor advisor in the appropriate NAVFACENGCOM division, or to the NAVFACENGCOMHQ Labor Advisor, NAVFACENGCOM (Code ACQ), Washington Navy Yard, Building 33, 1322 Patterson Avenue SE, Suite 1000, Washington, DC 20374-5065.

(2)(i) Submit requests for approval to DASN(AP) by email at NavyLaborAdvisor@navy.mil with the subject "PGI 222.101-1 - [Labor Relations Contact Approval Request/Plant Seizure/Injunctive Action]."

(ii) Immediately notify DASN(AP) by email at NavyLaborAdvisor@navy.mil with the subject "PGI 222.101-1 - [Labor Relations Contact/Seizure/Injunctive Action]."

5222.101-3 Labor Disputes.

(1)(i) Upon receipt of notice of an actual or potential labor dispute, including actual or potential strikes or picketing, the contracting officer shall provide notification to the Navy Labor Advisor and designated Labor Relations Coordinator in accordance with the procedures set forth in SECNAVINST 4200.36A Section 9.

(ii) The Contracting Officer must coordinate with the Navy Labor Advisor on options to proceed when a labor dispute results in the contractor being unable to continue to perform the contract requirements.

(iii) When it becomes necessary to remove government-owned material from a strike-bound plant because the contractor is unable to deliver due to the strike, the contracting officer should request the advice and assistance of the Navy Labor Advisor in making the determinations necessary for these actions.

5222.102-2 Administration.

(c)(1) The Contracting Officer shall refer questions from DOL or other interested parties regarding the application of contract labor standards to the Navy Labor Advisor in DASN(AP) by email at NavyLaborAdvisor@navy.mil, or for NAVFAC contracts, to the NAVFACENGCOM Labor Advisor.

(2) When a contracting officer receives a complaint or other indication of violation of the labor standards in a service or supply contract, the complaint shall be referred promptly to the nearest office of DOL, making every effort to maintain the confidentiality of the complainant except to DOL and directing any related questions to the Navy Labor Advisor in DASN(AP) by email at NavyLaborAdvisor@navy.mil.

5222.103 Overtime.

5222.103-4 Approvals.

(a) The CCO is the designated agency approving official.

5222.103-90 Exceptions.

The provisions of FAR 22.103, DFARS 222.103 and 5222.103 of this supplement are not applicable to ballistic missile programs.

SUBPART 5222.3—CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

5222.302 Liquidated damages and overtime pay.

(c) The Navy Labor Advisor is delegated authority to act for the agency head. The contracting officer recommendation regarding liquidated damages under the Contract Work Hours and Safety Standards statute shall be forwarded directly to the Navy Labor Advisor in DASN(AP) by email at NavyLaborAdvisor@navy.mil (or via the NAVFACENGCOM Labor Advisor if the matter involves a NAVFACENGCOM contract).

SUBPART 5222.4—LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

5222.406 Administration and enforcement.

5222.406-1 Policy.

(a) The contracting officer shall respond promptly to any complaint received alleging labor standards violations on construction contracts. Allegations of Wage Rate Requirements (Construction) or Contract Work Hours and Safety Standards statute violations shall be investigated and resolved in accordance with established procedures. Allegations of other labor violations (e.g., safety and health, undocumented workers, discrimination) shall be referred to the appropriate enforcement agency (e.g., Occupational Safety and Health Administration, Office of Immigration and Customs Enforcement, Equal Employment Opportunity Commission). The NAVFACENGCOM Labor Advisor shall be notified of investigations that disclose particularly egregious violations (e.g., significant underpayment of wages or benefits due workers, extensive falsification of records, findings of willful violation, and recommendations for debarment).

5222.406-8 Investigations.

(d) *Contracting officer's report.* (1) For NAVFACENGCOM contracts, the contracting officer's report shall be forwarded to NAVFACENGCOMHQ (Code ACQ), Washington Navy Yard, Building 33, 1322 Patterson Avenue SE, Suite 1000, Washington, DC 20374-5065, in accordance with Command procedures. For all other contracts, forward the report to DASN(AP) by email at NavyLaborAdvisor@navy.mil with the subject "DFARS 222.406-8 - Labor Standards Compliance:

Contracting Officer's Report."

(2)(iv) Forward the report to the Attorney General of the United States via DASN(AP) by email at NavyLaborAdvisor@navy.mil with the subject "DFARS 222.406-8 - Labor Standards Compliance: Contracting Officer's Report - Attorney General Notification." DASN(AP) will notify the Administrator, Wage and Hour Division.

SUBPART 5222.10—SERVICE CONTRACT LABOR STANDARDS

5222.1006 Solicitation provisions and contract clauses.

(c)(1) The [Desk Guide for Service Contract Price Adjustments](#) contains DON guidance on processing price adjustments that result from:

- (i) Changes in wage determinations issued under the Service Contract Act, or
- (ii) Amendments changing the minimum wage required by the Fair Labor Standards Act.

SUBPART 5222.11— PROFESSIONAL EMPLOYEE COMPENSATION

5222.1103 Policy, procedures, and solicitation provision.

(S-90) Incorporate provision 52.222-46, Evaluation of Compensation for Professional Employees, in full text, in applicable solicitations. Contracting officers shall ensure that Source Selection Plans, along with Sections L and M of competitive solicitations, accurately reflect consideration of the total compensation plan when required by this provision.

SUBPART 5222.70—RESTRICTIONS ON THE EMPLOYMENT OF PERSONNEL FOR WORK ON CONSTRUCTION AND SERVICE CONTRACTS IN NONCONTIGUOUS STATES

5222.7003 Waivers.

Submit waiver requests to DASN(AP) by email at NavyLaborAdvisor@navy.mil with the subject "DFARS 222.7002 - Waiver of Requirements—National Security Interest."

SUBPART 5222.74—RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS

5222.7404 Waiver.

Submit waiver requests for the Secretary of Defense via DASN(AP) by email at NavyLaborAdvisor@navy.mil with the subject "DFARS 222.7404 -Waiver-Mandatory Arbitrations."

SUBPART 5222.90— DEPARTMENT OF THE NAVY NON-CONSTRUCTION CONTRACTS CONTAINING CONSTRUCTION WORK

5222.9000 Department of the Navy non-construction contracts containing construction work.

The DON created the DON Non-Construction Contract with Construction Work Guide containing procedures that supplement existing policy for non-construction contracts (*e.g.* for supplies, services, research and development) that contain elements of construction valued in excess of the micro-purchase threshold. The procedures apply to all HCAs that award and administer contracts (including task and delivery orders) for assigned program requirements. The Guide is available at the ASN(RDA) website under Policy and Guidance.