

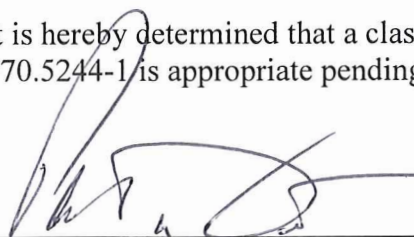
CLASS DEVIATION FINDINGS AND DETERMINATION 970.5244-1

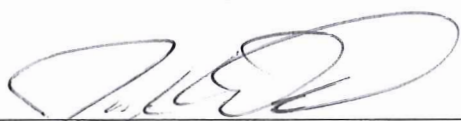
Findings

1. FAR Case 2010-010, "Service Contract Reporting Requirements" (effective January 30, 2014) implemented Section 743(a) of Division C of the Consolidated Appropriations Act, 2010 (P.L. 111-117) by adding FAR subpart 4.17 and the associated clauses at FAR 52.204-14 and 52.204-15, respectively.
2. FAR Case 2015-003, "Establishing a Minimum Wage for Contractors" (effective December 15, 2015) implemented Executive Order 13658, by adding FAR subpart 22.19 and the associated clause at FAR 52.222-55, "Minimum Wages under Executive Order 13658."
3. Like the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) (SCA) requirements implemented by the FAR, neither FAR subpart 4.17 or 22.19 are applicable to DOE M&O contracts as they are not considered "service contracts." However, both the SCA and the newly effective service contract reporting and contractor minimum wage requirements are applicable to M&O subcontracts for services.
4. The DEAR currently addresses SCA requirements and clause flowdown as required by the FAR, but it does not address the FAR service contract reporting or contractor minimum wage requirements and clauses. Therefore, in order to be in compliance with Federal law, subcontracts for services issued on or after January 30, 2014, must include FAR 52.204-14 and subcontracts for services issued on or after December 15, 2015 must include FAR 52.222-55.

Determination

It is hereby determined that a class deviation to revise paragraph (x) of DEAR 970.5244-1 is appropriate pending formal amendment of the DEAR.

for

 Paul Bosco,
 Director
 Office of Acquisition and
 Project Management
 Department of Energy


 Joseph Waddell,
 Deputy Associate Administrator
 Acquisition and
 Project Management
 National Nuclear Security Administration

970.5244-1 Contractor Purchasing System (DEVIATION)

(x) *Subcontract Flowdown Requirements.* In addition to terms and conditions that are included in the prime contract which direct application of such terms and conditions in appropriate subcontracts, the Contractor shall include the following clauses in subcontracts, as applicable:

- (1) Davis-Bacon clauses prescribed in 48 CFR 22.407.
- (2) Foreign Travel clause prescribed in 48 CFR 952.247-70.
- (3) Counterintelligence clause prescribed in 48 CFR 970.0404-4(a).
- (4) Service Contract Act clauses prescribed in 48 CFR 22.1006.
- (5) State and local taxes clause prescribed in 48 CFR 970.2904-1.
- (6) Cost or pricing data clauses prescribed in 48 CFR 970.1504-3-1(b).
- (7) Nondisplacement of Qualified Workers clause prescribed in 48 CFR 22.1207.
- (8) Service Contract Reporting clause prescribed in 48 CFR 4.1705.
- (9) Minimum Wages under Executive Order 13658 clause prescribed in 48 CFR 22.1906