

52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

As prescribed in 22.1006(e)(3), insert the following provision:

Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification (*May 2014*)

(a) The *offeror shall* check the following certification:

Certification

The *offeror* does does not certify that-

(1) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the *offeror* (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(2) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the *offeror*, is either published or otherwise available for *inspection* by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An "established market price" is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or *offeror*;

(3) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(4) The *offeror* uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the *offeror* uses for these employees and for equivalent employees servicing commercial customers.

(b) Certification by the *offeror* as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services. If the *offeror* certifies to the conditions in paragraph (a) of this provision, and the *Contracting Officer* determines in accordance with FAR 22.1003-4(d)(3) that the Service Contract Labor Standards statute-

(1) Will not apply to this *offeror*, then the Service Contract Labor Standards clause in this *solicitation* will not be included in any resultant contract to this *offeror*; or

(2) Will apply to this *offeror*, then the clause at FAR 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements, in this *solicitation* will not be included in any resultant contract awarded to this *offer*, and the *offeror may*

be provided an opportunity to submit a new *offer* on that basis.

(c) If the *offeror* does not certify to the conditions in paragraph (a) of this provision-

(1) The clause of this *solicitation* at 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements, will not be included in any resultant contract to this *offeror*; and

(2) The *offeror shall* notify the *Contracting Officer* as soon as possible if the *Contracting Officer* did not attach a Service Contract Labor Standards wage determination to the *solicitation*.

(d) The *Contracting Officer may* not make an award to the *offeror*, if the *offeror* fails to execute the certification in paragraph (a) of this provision or to contact the *Contracting Officer* as required in paragraph (c) of this provision.

(End of provision)

Parent topic: 52.222 [Reserved]