

CHANGE REQUEST COVER SHEET

Change Request Number: 12-06

Date Received: 11/10/2011

Title: Contract Work Hours and Safety Standards Act

Name: Eugene Scott

Phone: 202-493-4639

Policy OR Guidance: Guidance

Section/Text Location Affected: T3.6.2

Summary of Change: The change revises the dollar threshold for applicability from \$100,000 to \$150,000.

Reason for Change: To remain consistent with the Contract Work Hours and Safety Standards Act

Development, Review, and/or Concurrence: Acquisition Policy

Target Audience: All AMS users

Potential Links within FAST for the Change: none

Briefing Planned: No

ASAG Responsibilities: Approve

Potential Links within FAST for the Change: none

Links for New/Modified Forms (or) Documents (LINK 1) [null](#)

Links for New/Modified Forms (or) Documents (LINK 2) [null](#)

Links for New/Modified Forms (or) Documents (LINK 3) [null](#)

SECTIONS EDITED:

Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 4 : Contract Work Hours and Safety Standards Act [\[Old Content\]](#)[\[New Content\]](#)

[\[RedLine Content\]](#)

SECTIONS EDITED:

Section 4 : Contract Work Hours and Safety Standards Act

Old Content: Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 4 : Contract Work Hours and Safety Standards Act

a. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) applies to all contracts over \$100,000 that may require or involve laborers or mechanics (the term "laborers or mechanics" includes apprentices, trainees, helpers, watchmen, guards, firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors, but does not include seaman). The Contract Work Hours and Safety Standards Act (CWHSSA) requires that laborers or mechanics cannot be required, or permitted, to work more than 40 hours in any workweek unless paid overtime at not less than 1 1/2 times the basic rate of pay.

b. *Liquidated Damages and Overtime Pay.*

(1) When overtime computations disclose under-payments, the contractor and any subcontractor is liable to the affected employee for the employee's unpaid wages and is also liable to the FAA for liquidated damages. The CO will compute liquidated damages for each affected employee in the sum of \$10 for each calendar day that the employee was required, or permitted, to work in excess of the standard workweek of 40 hours without payment of overtime.

(2) If the contractor or any subcontractor fails or refuses to comply with overtime pay requirements and if the funds withheld by the FAA for labor standards violations are not sufficient to pay both the unpaid wages and the liquidated damages, the withheld funds will be used first to pay unpaid wages (or an equitable portion when the funds are not adequate for this purpose); and the balance, if any, used to pay liquidated damages.

(3) If the liquidated damages computation was incorrect or if the contractor or subcontractor inadvertently violated the provisions of the CHWSSA, the CO may:

(a) Make an adjustment in, or release the contractor or subcontractor from the liability for, liquidated damages of \$500 or less; or

(b) Make a recommendation to DOL for an adjustment in, or release from, the liability when the liquidated damages are over \$500.

(4) If the contractor is entitled to funds withheld or collected for liquidated damages, the CO should instruct the cognizant accounting office to pay the contractor the amount due. If the FAA is entitled to retain the funds, the CO should obtain instructions from the cognizant accounting office.

c. *Administration and Enforcement.* The same procedures and reports required for construction contract labor standards also apply to investigations of alleged violations of the CHWSSA when the contract is for other than a construction.

d. The CHWSSA does not apply to contracts:

(1) Valued at or below \$100,000;

(2) For commercial items;

(3) For the transportation or transmission of intelligence;

(4) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf Islands as defined by the Outer Shelf Lands Act;

(5) For work to be solely done in accordance with the Walsh-Healey Public Contracts Act;

(6) For supplies that include incidental services that do not require substantial employment of laborers or mechanics; or

(7) Exempt under regulations of the Secretary of Labor.

New Content: Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 4 : Contract Work Hours and Safety Standards Act

a. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) applies to all contracts over \$150,000 that may require or involve laborers or mechanics (the term "laborers or mechanics" includes apprentices, trainees, helpers, watchmen, guards, firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors, but does not include seaman). The Contract Work Hours and Safety Standards Act (CWHSSA) requires that laborers or mechanics cannot be required, or permitted, to work more than 40 hours in any workweek unless paid overtime at not less than 1 1/2 times the basic rate of pay.

b. Liquidated Damages and Overtime Pay.

(1) When overtime computations disclose under-payments, the contractor and any subcontractor is liable to the affected employee for the employee's unpaid wages and is also liable to the FAA for liquidated damages. The CO will compute liquidated damages for each affected employee in the sum of \$10 for each calendar day that the employee was required, or permitted, to work in excess of the standard workweek of 40 hours without payment of overtime.

(2) If the contractor or any subcontractor fails or refuses to comply with overtime pay requirements and if the funds withheld by the FAA for labor standards violations are not sufficient to pay both the unpaid wages and the liquidated damages, the withheld funds will be used first to pay unpaid wages (or an equitable portion when the funds are not adequate for this purpose); and the balance, if any, used to pay liquidated damages.

(3) If the liquidated damages computation was incorrect or if the contractor or subcontractor inadvertently violated the provisions of the CHWSSA, the CO may:

(a) Make an adjustment in, or release the contractor or subcontractor from the liability for, liquidated damages of \$500 or less; or

(b) Make a recommendation to DOL for an adjustment in, or release from, the liability when the liquidated damages are over \$500.

(4) If the contractor is entitled to funds withheld or collected for liquidated damages, the CO should instruct the cognizant accounting office to pay the contractor the amount due. If the FAA is entitled to retain the funds, the CO should obtain instructions from the cognizant accounting office.

c. Administration and Enforcement. The same procedures and reports required for construction contract labor standards also apply to investigations of alleged violations of the CHWSSA when the contract is for other than a construction.

d. The CHWSSA does not apply to contracts:

(1) Valued at or below \$150,000;

(2) For commercial items;

(3) For the transportation or transmission of intelligence;

(4) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf Islands as defined by the Outer Shelf Lands Act;

(5) For work to be solely done in accordance with the Walsh-Healey Public Contracts Act;

(6) For supplies that include incidental services that do not require substantial employment of laborers or mechanics; or

(7) Exempt under regulations of the Secretary of Labor.

Red Line Content: Procurement Guidance:

T3.6.2 - Labor Laws

Labor-Related Laws

Section 4 : Contract Work Hours and Safety Standards Act

a. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) applies to all contracts over \$~~100~~150,000 that may require or involve laborers or mechanics (the term "laborers or mechanics" includes apprentices, trainees, helpers, watchmen, guards, firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors, but does not include seaman). The Contract Work Hours and Safety Standards Act (CWHSSA) requires that laborers or mechanics cannot be required, or permitted, to work more than 40 hours in any workweek unless paid overtime at not less than 1 1/2 times the basic rate of pay.

b. *Liquidated Damages and Overtime Pay.*

(1) When overtime computations disclose under-payments, the contractor and any subcontractor is liable to the affected employee for the employee's unpaid wages and is also liable to the FAA for liquidated damages. The CO will compute liquidated damages for each affected employee in the sum of \$10 for each calendar day that the employee was required, or permitted, to work in excess of the standard workweek of 40 hours without payment of overtime.

(2) If the contractor or any subcontractor fails or refuses to comply with overtime pay requirements and if the funds withheld by the FAA for labor standards violations are not sufficient to pay both the unpaid wages and the liquidated damages, the withheld funds will be used first to pay unpaid wages (or an equitable portion when the funds are not adequate for this purpose); and the balance, if any, used to pay liquidated damages.

(3) If the liquidated damages computation was incorrect or if the contractor or subcontractor inadvertently violated the provisions of the CHWSSA, the CO may:

(a) Make an adjustment in, or release the contractor or subcontractor from the liability for, liquidated damages of \$500 or less; or

(b) Make a recommendation to DOL for an adjustment in, or release from, the liability when the liquidated damages are over \$500.

(4) If the contractor is entitled to funds withheld or collected for liquidated damages, the CO should instruct the cognizant accounting office to pay the contractor the amount due. If the FAA is entitled to retain the funds, the CO should obtain instructions from the cognizant accounting office.

c. *Administration and Enforcement.* The same procedures and reports required for construction contract labor standards also apply to investigations of alleged violations of the CHWSSA when the contract is for other than a construction.

d. The CHWSSA does not apply to contracts:

- (1) Valued at or below \$~~100~~150,000;
 - (2) For commercial items;
 - (3) For the transportation or transmission of intelligence;
 - (4) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf Islands as defined by the Outer Shelf Lands Act;
 - (5) For work to be solely done in accordance with the Walsh-Healey Public Contracts Act;
 - (6) For supplies that include incidental services that do not require substantial employment of laborers or mechanics; or
 - (7) Exempt under regulations of the Secretary of Labor.
-