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*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published of any posting or updates to the docket.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1. Revision No. 01.3.

■ 2. Amend § 117.261 by revising paragraph (u), (v), and (w)(1) to read as follows:

#### § 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

\* \* \* \* \*

(u) *Flagler Memorial (SR A1A) Bridge, mile 1021.8, at West Palm Beach.* (1)

The draw will open on the quarter and three-quarter hour, except Monday through Friday (except Federal holidays) from 7:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., the draw need only open on the quarter hour.

(2) When the security zone is enforced, the draw shall operate as follows:

(i) Monday through Friday (except on Federal holidays).

(A) 7:30 a.m. to 9 a.m., the draw need only open on the quarter hour.

(B) 9 a.m. to 2:15 p.m., the draw need only open on the quarter and three-quarter hour.

(C) 2:15 p.m. to 6 p.m., the draw need only open on the quarter hour.

(D) 6 p.m. to 7:30 a.m., the draw need only open on the quarter and three-quarter hour.

(ii) Saturday, Sunday, and Federal holidays the draw shall open on the quarter and three-quarter hour.

(v) *Royal Park (SR 704) Bridge, mile 1022.6, at West Palm Beach.* (1) The draw will open on the hour and half hour, except Monday through Friday (except Federal holidays) from 7:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., the draw need only open on the half hour.

(2) When the security zone is enforced, the draw shall operate as follows:

(i) Monday through Friday (except on Federal holidays).

(A) 7:30 a.m. to 9 a.m., the draw need only open on the half-hour.

(B) 9 a.m. to 2:15 p.m., the draw need only open on the hour and half-hour.

(C) 2:15 p.m. to 6 p.m., the draw need only open on the half-hour.

(D) 6 p.m. to 7:30 a.m., the draw need only open on the hour and half-hour.

(ii) Saturday, Sunday, and Federal holidays the draw shall open on the hour and half-hour.

(w) *Southern Boulevard (SR 80) Bridge, mile 1024.7, at West Palm Beach.* (1) The draw will open on the quarter and three-quarter hour, except Monday through Friday (except Federal holidays) from 7:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., the draw need only open on the quarter hour.

\* \* \* \* \*

Dated: October 30, 2024.

**Douglas M. Schofield,**

*Rear Admiral, U.S. Coast Guard Commander, Coast Guard Seventh District.*

[FR Doc. 2024–25660 Filed 11–5–24; 8:45 am]

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#### GENERAL SERVICES ADMINISTRATION

#### 48 CFR Part 570

[GSAR Case 2021–G530; Docket No. GSA–GSAR 2024–0019; Sequence No. 1]

RIN 3090–AK51

#### General Services Administration Acquisition Regulation (GSAR); Construction Labor Requirements for Lease Acquisitions

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).  
**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration is proposing to amend the General Services Administration Acquisition Regulation to add a new section that adopts the amended definition of the term “public building or public work” from the Department of Labor’s Updating the Davis-Bacon and Related Acts Regulations final rule and to include compliance with the minimum wage and sick leave Executive Orders, and other requirements for leasehold acquisitions when there is a qualifying construction event as defined in this rule.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before January 6, 2025 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to GSAR Case 2021–G530 to: [Regulations.gov](https://www.regulations.gov): <https://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “GSAR Case 2021–G530”. Select the link “Comment Now” that corresponds with GSAR Case 2021–G530. Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “GSAR Case 2021–G530” on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

*Instructions:* Please submit comments only and cite GSAR Case 2021–G530 in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov> approximately two to three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Ms. Johnnie McDowell, Procurement Analyst, at 202–718–6112 or [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite GSAR Case 2020–G530.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Federal Government is the largest single lessee of space in the United States. General Services Administration (GSA), as one of the nation's largest public real estate organizations, provides workspace for over one million Federal workers located in space owned by the Federal government and in leased properties including buildings, land, and sites across the country.

Since 1994, GSA has applied the Construction Wage Rate Requirements (CWRR), also known as the Davis-Bacon Act (DBA), clauses in contracts and subcontracts specifically for new building construction, whether planned lease construction or the complete rehabilitation or reconstruction of an existing building, where the Government is the sole or predominant tenant of the facility.

On August 23, 2023, the Department of Labor (DOL) published a final rule updating the regulations that implement the Davis-Bacon and Related Acts (DBRA) (see 88 FR 57526). The DOL rule, among other things, clarified the regulatory definitions of a “building or work” and “public building or public work” to include a portion of a building or work, or the installation of equipment or components into a building or work, even where the entire building or work is not owned, leased, or used by a Federal agency, so long as other requirements for coverage are met. Examples of other requirements for coverage include the Federal government's sufficient involvement with the lease, and the existence of a contract for construction that is authorized or financed by the Federal government.

In reviewing the clarifying language in DOL's recent revisions to the DBRA regulations, the Federal Acquisition Regulation (FAR) subpart 22.4 Labor Standards for Contracts Involving Construction, and GSAR Part 570 Acquiring Leasehold Interests in Real Property, GSA determined that proposing a new subpart addressing all of the requirements for lease contracts with a CWRR qualifying construction event was necessary.

**II. Discussion and Analysis**

The rule proposes to amend GSAR Subpart 570.1, General by creating a new section GSAR 570.119 Construction labor requirements for lease acquisitions to assist the leasing acquisition workforce in implementing the changes to the CWRR clauses. The new subpart will identify:

- When CWRR applies;
- Common terminology to ensure the Government, offeror, lessor, and subcontractors clearly understand the application and associated requirements;
- Why the Service Contract Labor Standards usually does not apply to lease contracts;
- Procedures for compliance monitoring and reporting; and
- All applicable clauses and executive orders required for lease contracts with a qualifying construction event.

*A. Identify When CWRR Applies*

The rule will require the application of the CWRR in all new and existing lease contracts with a qualifying construction event provided that the construction work itself is performed in whole or in part within the United States, District of Columbia, or the Commonwealth of Northern Mariana Islands.

*B. Common Terminology*

The key component of the rule is defining a qualifying construction event which prompts a lease contract to include the CWRR requirements. This rule also defines ancillary terms including tenant improvements, building shell and building specific amortized capital. These terms have long been used in GSA lease contracts.

*C. Service Contract Labor Standards*

The rule clarifies that the Service Contract Labor Standards (SCLS), also known as Service Contract Act (SCA), generally does not apply to contracts for the lease of space for government occupancy because these contracts usually do not have the principal purpose of furnishing services, as required for coverage under the SCLS. (See 41 U.S.C. 6702, 29 CFR 4.134(b)). In addition, workers carrying out the construction activities on lease contracts with a qualifying construction event are covered by the CWRR and therefore are exempt from coverage under the SCLS. (See 29 CFR 4.115(b)).

*D. Procedures for Requirements, Compliance Monitoring and Reporting*

The rule directs contracting officers to the Federal Acquisition Regulation

(FAR) guidance to implement CWRR requirements in lease acquisitions involving qualifying construction events, including wage determinations (FAR 22.404), payroll certification and work safety and health (FAR 22.407), and compliance and monitoring (FAR 22.406–7).

*E. List of All Applicable Clauses*

The rule will add CWRR labor clauses to GSAR section 570.701 FAR provisions and clauses for all lease contracts with a qualifying construction event including the clauses that incorporate Executive Order (E.O.) 13706, Establishing Paid Sick Leave for Federal Contractors, and E.O. 14026, Increasing the Minimum Wage for Federal Contractors.

Although the majority of the required CWRR labor clauses were previously included in leasing contract templates per the DOL's All Agency Memorandum 176 and the remaining clauses were included as a result of the two applicable E.O.s, the application of the CWRR affected only a small number of lease contracts. The DOL DBRA final rule's clarification of the term “public building or public works” expanded GSA's application of CWRR for lease contracts involving construction and prompted this change.

*F. Severability*

If any portion (e.g., section, clause, sentence) of this rule, as finalized, is held to be invalid or unenforceable facially, or as applied to any entity or circumstance, it shall be severable from the remainder of the rule, and shall not affect the remainder thereof, or its application to entities not similarly situated or to other dissimilar circumstances. The various portions of this proposed rule are independent and serve distinct purposes. Even if one aspect as finalized were rendered invalid, the other benefits of the rule would still be applicable. As an illustrative but not exhaustive example, were a court to stay or invalidate any changes to GSAR subpart 570.1 as finalized regarding the definition of “public building or public works”, GSA would intend the broader proposed restructuring of GSAR 570 to remain effective.

**III. Expected Impact of the Rule**

This section is divided into an analysis of the qualitative and quantitative impact the rule will have on the public and the Government. The associated costs were calculated by analyzing Fiscal Years 2021 through Fiscal Year 2023 data from the Real

Estate Across the United States (REXUS) database.

According to the review of REXUS data, the estimated annual number of lease contract actions with a qualifying construction event is 727, of which 70 percent, or 509, were with small business entities. In this section, GSA based the calculations on the Regulatory Impact Analysis on the 2024 General Schedule Grade 12 Step 5 pay scale (using the rate for the rest of the United States) with a burden of 100% for fringe benefits. The following paragraphs detail activities which are required by this rule for lease contracts with a qualifying construction event:

#### A. Overall Impact

Although the rule will expand GSA's application of CWRR from less than 10 lease contracts per year to an estimated average of 727 annually, existing resources will greatly reduce the impact of this rule. Specifically, existing DOL training resources, GSA leasing guide and templates, and stakeholders' familiarity with the CWRR requirements and the two E.O.s will significantly reduce the impact of this rule. GSA analyzed the effects of the rule in four significant areas:

- Wage determinations;
- Payroll reviews and certifications;
- Familiarization of applicable clauses; and
- Monitoring and reporting.

##### A.1. Wage Determinations

First, GSA reviewed the process for incorporating the appropriate wage determinations throughout the lease contract with a qualifying construction event's life cycle. This rule will require the contracting officer to incorporate the wage determinations with the solicitation package and update with the most recent wage determinations at the time of a qualifying construction event. Lessors and their subcontractors are responsible for ensuring laborers and mechanics are being paid in accordance with the CWRR wage determination, accrue the correct sick time, and are paid at or above the E.O. 14026 minimum wage rate.

GSA estimates that lessors with qualifying construction events may initially take an average of 2 hours to implement the procedures for ensuring the wage determinations are included in any subcontract awarded to carry out the qualifying construction event. The 2 hours estimation is based on historical estimates from GSA construction contractors. GSA estimates that there will be an average of 1 subcontractor for each qualifying construction event, which takes into consideration

circumstances in which lessors use their own employees to carry out the construction and circumstances in which more than one subcontractor work on the project. GSA estimated the regulatory cost for this part of the rule to be \$137,316 ( $= 2 \text{ hours} \times \$94.44 \times 727$  (rounded)).

##### A.2. Payroll Reviews and Certifications

Next GSA reviewed the CWRR requirement for contractors and subcontractors to submit weekly certified payroll to the contracting agency. (See FAR clause 52.222-8(b)). In analyzing the impact of the rule on payroll reviews and certifications, GSA found that most businesses use automated payroll software to process their payrolls. The impact of this rule associated with the use of these automated systems will be reduced because the majority of the data such as employee identifiers, number of withholdings/exemptions, hours worked, and rate of pay is already being captured.

GSA recognizes that for leasing, the payroll review and certification process will only apply to lease contracts with a qualifying construction event and will terminate at the successful completion of the qualifying construction event work. Therefore, lessors will not necessarily be required to review and submit the payroll data for an entire 52-week timeframe.

GSA also discovered, due to the frequency of the payroll data submissions, that after the completion of the first payroll review and certification, subsequent reviews required less time and effort. This reduction in review and certification time could be traced back to the lack of variances or major changes to the contractor payroll data. Most changes were due to employee turnover, new hires, and apprenticeship to journeyman ratios. Currently, GSA is looking at an enterprise-type solution to the payroll review and certification process through the procurement of commercial off-the-shelf products.

GSA estimates that lessors with qualifying construction events may initially take an average of 1.5 hours to develop and implement procedures for reviewing and certifying payroll data. GSA's calculation also includes the average weeks a qualifying construction event takes to complete the work, which is 24 weeks. GSA estimated the regulatory cost for the above scenario to be \$2,471,684 ( $= 1.5 \text{ hours} \times \$94.44 \times 727 \times 24 \text{ weeks}$  (rounded)).

##### A.3. Labor Clause Familiarization

In analyzing the impact of the rule associated with the need to become familiar with the added clauses, GSA found that all of the clauses being applied through GSAR 570.701 already exist in current leasing contract templates. Therefore, the leasing acquisition workforce and the lessor community have general familiarity with the majority of the changes proposed in the rule.

GSA estimates that lessors with qualifying construction events may initially take an average of 2 hours to familiarize themselves with CWRR. The 2 hours estimation is based on historical information, complexity of the clause and the detailed training available to the lessor. GSA estimated the regulatory cost for this part of the rule to be \$137,316 ( $= 2 \text{ hours} \times \$94.44 \times 727$  (rounded)).

In addition, lessors are estimated to require 5 additional hours based on the complexity of the information to familiarize themselves with E.O. 13706. GSA estimated the regulatory cost for this part of the rule to be \$343,289 ( $= 5 \text{ staff hours} \times \$94.44 \times 727$ ).

Lessors were also estimated to take 3 hours to familiarize themselves with E.O. 14026. Minimum wage requirements have been part of the Federal, State and local laws for decades. The 3 hours accounts for some of the nuances made in the E.O. application. GSA estimated the regulatory cost for this part of the rule to be \$205,974 ( $= 2 \text{ hours} \times \$94.44 \times 727$ ).

##### A.4. Monitoring and Reporting

In analyzing the monitoring and reporting requirements, GSA found the initial impact would be on the increased number of leasing contracting officers, lessors, and subcontractors affected by the updated DOL rule. Although the CWRR clauses were in GSA templates, GSA did not apply the CWRR requirements to the majority of the lease contracts and did not require the development of internal processes to resolve payroll discrepancies, if needed, or reporting to DOL.

GSA will be responsible for submitting two enforcement or compliance reports annually, as necessary, to DOL. These reports include the submission or updating of the 3-year forecast report and the submission of semi or annual compliance reports.

GSA estimates that lessors with qualifying construction events may take an average of 1.5 hours to provide responses to payroll discrepancies with

supplemental payroll review documents or other information if required for investigations, which can be generated from databases very quickly. GSA estimated the regulatory cost for this part of the rule to be \$102,987 (= 1.5 hours × \$94.44 × 727 (rounded)).

**B. Benefits**

GSA believes that applying the DOL DBRA final rule through the CWRR statute to lease contracts with a qualifying construction event will result in benefits to the government, laborers and mechanics, and lessors and their subcontractors. Some possible benefits for each group are provided below:

**B.1. For the Government**

In updating its regulation, the DOL clearly explained the benefits to the Federal Government. For GSA, this

change will ensure GSA leases are performed in accordance with current regulations. GSA has an interest in only contracting with those lessors that comply with all applicable Federal regulations, for that provides the greatest confidence that they will support the requirements of their lease contract.

**B.2. For Laborers and Mechanics**

Affected laborers and mechanics are expected to significantly benefit from the implementation of the changes to CWRR to the extent they increase the wages and fringe benefits paid to these workers. Any increase in wages will increase their ability to buy groceries, pay for housing (i.e., rent or mortgage payments), purchase gasoline and other necessities as well as entertainment. In addition, laborers and mechanics will

be provided with compliance and protections that may increase worker’s job satisfaction and productivity levels.

**B.3. For Lessors and Subcontractors**

Lessors and their subcontractors, especially small businesses, will be knowledgeable of the regulations and well positioned to comply thus avoiding the risk of enforcement action from the DOL. Also, some proponents to modernizing DBA argue that DBA, also known as CWRR, payment of no less than prevailing wages to eligible workers may attract a more experienced level of laborers and mechanics to work on Government construction contracts.

**C. Summary of Total Costs**

The overall annual total cost, including both Public and Government costs, is outlined in the table below:

Action	Number of hours	Cost per qualifying event	Number of qualifying lease contracts	Total cost
Updating Wage Determinations (Public) .....	2	\$94.44	727	\$137,316
Payroll Reviews and Certification (Public) .....	* 1.5	94.44	727	2,471,684
Familiarization with DBA Requirements (Public) .....	2	94.44	727	137,316
Familiarization With E.O. 13706 Establishing Paid Sick Leave for Federal Contractors (Public) .....	5	94.44	727	343,289
Familiarization With E.O. Executive Order 14026 Increasing the Minimum Wage for Federal Contractors (Public) .....	3	94.44	727	205,974
<b>Total (Public) .....</b>				<b>3,295,579</b>
Updating Wage Determinations (Government) .....	.5	94.44	727	34,329
Payroll Reviews and Certifications (Government) .....	2	94.44	727	137,316
Monitoring and Reporting CWRR, and Paid Sick Leave (Government) .....	1.5	94.44	727	102,987
<b>Total Government .....</b>				<b>274,632</b>
<b>Total Public + Total Government .....</b>				<b>3,570,211</b>

\* For 24 weeks.

Although there are no quantifiable cost savings in implementing this proposed rule, the majority of the costs incurred (95%) are associated with the conducting of weekly payroll reviews and certification. GSA expects to have an automated resolution in the near future which is expected to significantly reduce the cost of performing this activity.

**IV. Executive Orders 12866, 13563, and 14094**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting

flexibility. E.O. 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

**V. Regulatory Flexibility Act**

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* because of the application of the CWRR to a larger number of leases. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603.

The Regulatory Secretariat will be submitting a copy of the Initial Regulatory Flexibility Analysis (IRFA) to the Chief Counsel for Advocacy of the

Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (GSAR Case 2021–G530) in correspondence.

The analysis is summarized as follows:

The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to add a new section to adopt the amended definition of the term “public building or public work” from the Department of Labor’s (DOL) Updating the Davis-Bacon Acts Regulations final rule and to include compliance with the minimum wage and sick leave Executive Orders and

other requirements for leasehold acquisitions of real property when there is a qualifying construction event as defined in this rule.

The objective of the rule is to amend GSAR Subpart 570.1, General, by creating section 571.119 Construction Labor requirements for lease acquisition and adding applicable labor clauses at 570.701 FAR provisions and clauses to clarify when GSA's lease contracts with a qualifying construction event would need to apply Construction Wage Rate Requirements (CWRR).

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

The rule will apply to large and small businesses. For purposes of this assessment, information generated from the Real Estate Across the United States (REXUS) has been used as the basis for estimating the number of contractors that may be involved. GSA estimates that of the 7,618 lease contracts in its inventory approximately 727 annual lease contracts are projected annually to have a qualifying construction event of which over 509 (70 percent) are estimated to involve small business entities.

It is anticipated that these changes will ensure both large and small businesses comply with CWRR statutory requirements for lease contracts with a qualifying construction event. These changes will clarify the requirements for the acquisition workforce, offerors and lessors and ensure that all laborers and mechanics receive the appropriate wages, protections provided by the statute, and receive the paid sick leave and minimum wages provided by executive orders. Overall, the implementation of the changes to the application of CWRR will ensure small businesses can compete equally with large businesses when recruiting qualified and experienced laborers and mechanics.

The rule will not impose any additional reporting, recordkeeping and other compliance requirements than those required by the CWRR statute as updated in the DOL DBRA final rule.

There are no known significant alternative approaches to the rule. The changes to the Davis-Bacon and Related Acts final rule clarify that the definition of "building or work" and "public building (or public work)" applies to lease contracts involving public construction over \$2,000.

## VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget Control Numbers 1235-0008 and 1235-0018 (Davis-Bacon Certified Payroll); and OMB control number 1235-0023 (Requests to Approve Conformed Wage Classifications and Unconventional Fringe Benefit Plans Under the Davis-Bacon and Related

Acts/Contract Work Hours and Safety Standards Act).

### List of Subjects in 48 CFR Part 570

Government procurement.

**Jeffrey A. Koses,**

*Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.*

Therefore, GSA proposes amending 48 CFR part 570 as set forth below:

■ 1. The authority citation for 48 CFR part 570 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

### PART 570—ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

■ 2. Add section 570.119 to read as follows:

#### 570.119 Construction labor requirements for lease acquisitions.

This section applies to all new and existing leases with a qualifying construction event where the work is performed in whole or in part within the 50 states, District of Columbia, or the Commonwealth of Northern Mariana Islands. See FAR subpart 22.4, GSAR Subpart 522.4, and the Public Buildings Service (PBS) Pricing Desk Guide located at <https://www.gsa.gov/real-estate/pricing-policy> for additional guidance, as applicable.

#### 570.119-1 Definitions.

As used in this section—

*Building specific amortized capital (BSAC) improvements* means security items that are a separate capital investment in the property. See PBS Pricing Desk Guide for additional information at <https://www.gsa.gov/real-estate/pricing-policy>.

*Building shell improvements* means improvements to provide the complete enveloping structure, the base building systems, and the finished common areas (e.g., building common and floor common) of a building that adjoin the occupant areas. See PBS Pricing Desk Guide for additional information at <https://www.gsa.gov/real-estate/pricing-policy>.

*Public Building or Public Works* includes construction activity involving just a portion of a building or work, including the installation, where appropriate, of equipment or components into a building or work, and even where the entire building or work is not owned, leased by, or to be used by a Federal agency so long as the other requirements for coverage are met. Examples of other requirements for coverage include the Federal government's sufficient involvement

with the lease, and the existence of a contract for construction that is authorized or financed by the Federal government.

*Qualifying construction event* means an event that requires construction, alteration, or repair work as defined in FAR 22.401, in excess of \$2,000 of Federal funds, required by the Government in or in connection with leases of real property. There may be one or more qualifying construction events during the lease term. A qualifying construction event exists where the construction, alteration, or repair work—

(1) Is carried on by authority of or with funds of a Federal agency to serve the interest of the general public, and there is sufficient involvement of the Federal government in the lease and specified construction so as to satisfy the definition of a public building or public work and supplemental language included in this section;

(2) Has a defined begin and end date; and

(3) Includes, at a minimum, one or more of the following:

(i) Initial occupancy build-out (e.g., building shell improvements, tenant improvements, BSAC improvements—construction portions only);

(ii) Build-out projects associated with expansion or reduction in square footage;

(iii) Stand-alone alterations projects; or

(iv) Cyclical carpet replacement and re-painting required by the lease contract, not including maintenance.

*Tenant improvements (TI)* means finishes and fixtures that typically take space from the shell condition to a finished, usable condition. The resulting space is complete, meets applicable building codes, and meets the customer agency's functional needs. See PBS Pricing Desk Guide for additional information at <https://www.gsa.gov/real-estate/pricing-policy>.

#### 570.119-2 Inapplicability.

The following paragraphs specify circumstances in which certain labor standards do not apply paragraphs specify circumstances in which certain labor standards do not apply:

(a) *Service Contract Labor Standards (SCLS)*. The SCLS, also known as Service Contract Act (SCA), does not apply per 41 U.S.C.6702, 29 CFR 4.115(b), and 29 CFR 4.134(b) to lease contracts for government occupancy.

(b) Construction wage rate requirements (CWRR). The CWRR does not apply to the following work:

(1) Maintenance services which are regularly scheduled, routine, or

recurring tasks provided on an incidental basis and not performed as part of a qualifying construction event associated with the lease. Examples include—

- (i) Janitorial services;
- (ii) Utility services; and
- (iii) Landscaping services.

(2) Repair or replacement work required under the lease contract which is not substantial or segregable.

Examples include work of the following type where such work is not substantial or segregable—

(i) Repairing or replacing broken or damaged improvements (e.g., locks, partitioning, flooring, or ceiling tiles);

(ii) Repairing or replacing building systems (e.g., mechanical, electrical, plumbing); and

(iii) Repairing or replacing finishes in common areas (e.g., carpet, paint, or ceiling tiles).

(3) Alteration or repair work within the Government's space which were not requested by the Government;

(4) Design work for a qualifying construction event; and

(5) Leases or projects in Guam, Puerto Rico, U.S. Virgin Islands, U.S. Territories or foreign countries.

**570.119-3 Procedures.**

(a) *Requirements.* Contracting officers must ensure solicitations and resultant contracts with an anticipated qualifying construction event include the appropriate labor clauses and wage determination(s). Contracting officers must also ensure that all existing lease contracts with qualifying construction

events (whether ordered by lease amendments or other methods) are formalized in a contract modification, extension, or option that includes the appropriate labor clauses and wage determination(s).

(1) *Appropriate construction labor clauses.* Contracting officers shall include Construction Wage Rate Requirements (CWRR), also known as Davis-Bacon Act (DBA), clauses in any solicitation, resulting contract, and contract modification involving anticipated qualifying construction events (see 570.701(d)).

(2) *Wage determination requirements.* Contracting officers shall follow compliance outlined in FAR 22.404 and this section.

(i) Contracting officers shall include the most recent wage determination(s) for the applicable location(s) and the type(s) of construction work (e.g., building, heavy, highway, residential) in solicitations, before requesting final proposal revisions, or, for qualifying construction events associated with lease modifications, with the initial pricing request to the lessor.

(ii) Contracting officers shall provide the most recent wage determination(s) to the apparent successful offeror if the wage determination(s) changes after the final proposal revisions are received but prior to the award of the lease contract.

(b) *Compliance monitoring procedures.* Contracting officers shall follow compliance and reporting requirements outlined in FAR 22.406-7, FAR 22.2109, or FAR 22.1905 for lease

acquisitions with qualifying construction events:

(1) *Compliance Monitoring.* (i) The contracting officer must take reasonable steps during and after each qualifying construction event to ensure compliance with the requirements outlined in this section to include the:

(A) Payment of correct wage determination or minimum wage rates during each qualifying construction event.

(B) Receipt of payroll records from the lessor from each qualifying construction event, as required.

(C) Accessibility of all payroll records to the DOL during the 3-year retention period for investigation or audits.

(ii) The contracting officer is responsible for tracking discrepancies for qualifying construction events, including investigation, reporting, and resolution. Outstanding discrepancies unresolved at the completion of the construction work shall be followed up until resolved.

(2) *Reporting.* The PBS Leasing Office is responsible for the timely submission of reports to DOL including enforcement and forecasting reports (see FAR 22.406-13 and 522.406-13). The PBS Leasing Office shall submit a copy of these reports to the GSA Labor Advisor at [GSALaborAdvisor@gsa.gov](mailto:GSALaborAdvisor@gsa.gov).

■ 3. Amend section 570.701 by adding paragraph (1) to the table to read as follows:

**570.701 FAR provisions and clauses.**

\* \* \* \* \*

If . . .

Then include . . .

\* \* \* \* \*  
(1) Insert the following clauses in the solicitation, resulting contract or contract modification that involve a qualifying construction event in excess of \$2,000:

- \* \* \* \* \*
- 52.222-4 Contract Work Hours and Safety Standards—Overtime Compensation.
- 52.222-5 Construction Wage Rate Requirements Secondary Site of the Work.
- 52.222-6 Construction Wage Rate Requirements.
- 52.222-7 Withholding of Funds.
- 52.222-8 Payrolls and Basic Records.
- 52.222-9 Apprentices and Trainees.
- 52.222-10 Compliance with Copeland Act Requirements.
- 52.222-11 Subcontracts (Labor Standards).
- 52.222-12 Contract Termination—Debarment.
- 52.222-13 Compliance with Construction Wage Rate Requirements and Related Regulations.
- 52.222-14 Disputes Concerning Labor Standards.
- 52.222-15 Certification of Eligibility.
- 52.222-55 Minimum Wages for Contractor Workers Under Executive Order 14026.
- 52.222-62 Paid Sick Leave Under Executive Order 13706.