



**FAR FACTS**  
**SEASON 2023, EPISODE FOURTEEN**  
**FAR PARTS 22 AND 23**

1. Agencies shall remain impartial concerning any dispute between labor and contractor management and not undertake the conciliation, mediation, or arbitration of a labor dispute. **FAR 22.101-1(b)(1).**
2. A delay caused by a strike that a contractor or subcontractor could not reasonably prevent can be excused; however, it cannot be excused beyond the point at which a “reasonably diligent contractor or subcontractor” could have acted to end the strike. **FAR 22.101-2(b).**
3. As a general rule, contractors are required to perform contracts, so far as practicable, without using overtime. **FAR 22.103-2.**
4. As a general rule, solicitations should not specify delivery or performance schedule that would require use of overtime work. **FAR 22.103-3(a).**
5. CO approval of payment of overtime premiums is required for time-and-material and labor-hour contracts but is not required for paying premiums under other types of contracts (such as cost reimbursement contracts). **FAR 22.103-4(c) and (d).**
6. Contractors who fail to properly pay non-exempt employees overtime are subject to liquidated damages. **FAR 22.302(a).**
7. The Department of Labor is responsible for issuing wage determinations (“WD”) reflecting “prevailing wages,” including fringe benefits. **FAR 22.404.**
8. The Davis Bacon Act (now referred to in the FAR as “Wage Rate Requirements (Construction)”) is a minimum wage statute applicable to federal construction contracts in excess of \$2,000. **FAR 22.403-1.**
9. The Walsh-Healey Public Contracts Act is applicable to contracts for the manufacturing or furnishing of materials, supplies, or equipment in excess of \$15,000 and performed in the U.S., Puerto Rico, and the U.S. Virgin Islands. **FAR 22.602.**
10. The Service Contract Act is applicable to all contracts for services valued greater than \$2,500. **FAR 22.1002-1.**

6. All Davis-Bacon Act and Service Contract Act-covered contracts are required to include a current WD. However, the Government is permitted to award a contract that does not include one at the time of contract award provided it is added by way of a contract modification that equitably adjusts the contractor's price upward or downward when appropriate. **FAR 22.404-9.**
7. The Government is permitted to conduct interviews with a contractor's employees (without employer present), onsite inspections, payroll reviews, and comparison of information to daily inspector's report to ensure a contractor's compliance with the wage statutes/regulations set forth in FAR Part 22. **FAR 22.406-7.**
8. The following personal characteristics are protected from discrimination by E.O. 11246 and FAR 22.8: race, color, religion, sex, sexual orientation, gender identity, and sexual orientation. **FAR 22.802(a)(2).**
9. The requirement of E.O. 11246 and thus the FAR Equal Employment Opportunity clause set forth at **FAR 52.222-26** are not applicable to prime contractors or subcontractors performing work outside of the U.S. if employees were recruited outside of the U.S. **FAR 22.807(b)(2).**
10. Under the Government's E-Verify program, federal contractors must enroll either all new employees (within 3 business days after the date of hire) or employees assigned to the federal government contract (within 30 days after being assigned to the contract). **FAR 52.222-54(b)(ii) and (iii).**
11. Unless included in an exempt category (see **FAR 22.1903(b)(2)**), all workers performing on or "in connection with" a federal government contract must be paid at least \$15.00/hour. **FAR 22.1902.**
12. The Drug Free Workplace Act clause set forth at **FAR 52.223-6** is not required in contracts for the acquisition of commercial items or work performed outside the United States and its outlying areas. **FAR 23.501.**