§ 13.3 Coverage.

(a) This part applies to any new contract with the Federal Government, unless excluded by § 13.4, provided that:

(1)(i) It is a procurement contract for construction covered by the Davis-Bacon Act;

(ii) It is a contract for services covered by the Service Contract Act;

(iii) It is a contract for concessions, including any concessions contract excluded from coverage under the Service Contract Act by Department of Labor regulations at § 4.133(b); or

(iv) It is a contract in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; and

(2) The wages of employees performing on or in connection with such contract are governed by the Davis-Bacon Act, the Service Contract Act, or the Fair Labor Standards Act, including employees who qualify for an exemption from the Fair Labor Standards Act's minimum wage and overtime provisions.

(b) For contracts covered by the Service Contract Act or the Davis-Bacon Act, this part applies to prime contracts only at the thresholds specified in those statutes. For procurement contracts where employees' wages are governed by the Fair Labor Standards Act, this part applies when the prime contract exceeds the micro-purchase threshold, as defined in 41 U.S.C. 1902(a). For all other prime contracts covered by Executive Order 13706 and this part and for all subcontracts awarded under prime contracts covered by Executive Order 13706 and this part, this part applies regardless of the value of the contract.

(c) This part only applies to contracts with the Federal Government requiring performance in whole or in part within the United States. If a contract with the Federal Government is to be performed in part within and in part outside the United States and is otherwise covered by the Executive Order and this part, the requirements of the Order and this part would apply with respect to that part of the contract that is performed within the United States.

(d) This part does not apply to contracts for the manufacturing or furnishing of materials, supplies, articles, or equipment to the Federal Government, including those that are subject to the Walsh-Healey Public Contracts Act, 41 U.S.C. 6501 *et seq.*

§ 13.4 Exclusions.

(a) *Grants.* The requirements of this part do not apply to grants within the meaning of the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C. 6301 *et seq.*

(b) *Contracts and agreements with and grants to Indian Tribes.* This part does not apply to contracts and agreements with and grants to Indian Tribes under the Indian Self-Determination and Education Assistance Act, as amended, 25 U.S.C. 450 *et seq.*

(c) *Procurement contracts for construction that are excluded from coverage of the Davis-Bacon Act.* Procurement contracts for construction that are not covered by the Davis-Bacon Act are not subject to this part.

(d) *Contracts for services that are exempted from coverage under the Service Contract Act.* Service contracts, except for those expressly covered by § 13.3(a)(1)(iii) or (iv), that are exempt from coverage of the Service Contract Act pursuant to its statutory language at 41 U.S.C. 6702(b) or its implementing regulations, including those at § 4.115 through 4.122 and § 4.123(d) and (e), are not subject to this part.

(e) *Employees performing in connection with covered contracts for less than 20 percent of their work hours in a given workweek.* The accrual requirements of this part do not apply to employees performing in connection with covered contracts, *i.e.*, those employees who perform work duties necessary to the performance of the contract but who are not directly engaged in performing the specific work called for by the contract, who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts. This exclusion is inapplicable to employees performing on covered contracts, *i.e.*, those employees directly engaged in performing the specific work called for by the contract, at any point during the workweek. This exclusion is also inapplicable to employees performing in connection with covered contracts with respect to any workweek in which the employees spend 20 percent or more of their hours worked performing in connection with a covered contract.

(f) *Employees whose covered work is governed by a collective bargaining agreement that already provides 56 hours of paid sick time*. If a collective bargaining agreement ratified before September 30, 2016 applies to an employee's work performed on or in connection with a covered contract and provides the employee with at least 56 hours (or 7 days, if the agreement refers to days rather than hours) of paid sick time (or paid time off that may be used for reasons related to sickness or health care) each year, the requirements of the Executive Order and this part do not apply to the employee until the earlier of the date the agreement terminates or January 1, 2020. If a collective bargaining agreement ratified before September 30, 2016 applies to an employee's work performed on or in connection with a covered contract and provides the employee with paid sick time (or paid time off that may be used for reasons related to sickness or health care) each year, but the amount of such leave provided under the agreement is less than 56 hours (or 7 days, if the agreement refers to days rather than hours), the requirements of the Executive Order and this part do not apply to the employee until the earlier of the date the agreement terminates, or January 1, 2020, *provided that* each year the contractor provides covered employees with the difference between 56 hours (or 7 days) and the amount provided under the existing agreement in a manner consistent with either the Executive Order and this part or the terms and conditions of the collective bargaining agreement.

§ 13.5 Paid sick leave for Federal contractors and subcontractors.

(a) *Accrual*. (1) A contractor shall permit an employee to accrue not less than 1 hour of paid sick leave for every 30 hours worked on or in connection with a covered contract. A contractor shall aggregate an employee's hours worked on or in connection with all covered contracts for that contractor for purposes of paid sick leave accrual.

(i) Hours worked has the same meaning for purposes of Executive Order 13706 and this part as it does under the Fair Labor Standards Act, as set forth in 29 CFR part 785. To properly exclude time spent on non-covered work from an employee's hours worked that count toward the accrual of paid sick leave, a contractor must accurately identify in its records the employee's covered and non-covered hours worked, or, if the employee performs work in connection with rather than on covered contracts, a contractor may estimate the portion of an employee's hours worked spent in connection with covered contracts provided the estimate is reasonable and based on verifiable information.

(ii) A contractor shall calculate an employee's accrual of paid sick leave no less frequently than at the conclusion of each pay period or each month, whichever interval is shorter. A contractor need not allow an employee to accrue paid sick leave in increments smaller than 1 hour for completion of any fraction of 30 hours worked. Any such fraction of hours worked shall be added to hours worked for the same contractor in subsequent pay periods to reach the next 30 hours worked provided that the next pay period in which the employee performs on or in connection with a covered contract occurs within the same accrual year.

(iii) If a contractor is not obligated by the Service Contract Act, Davis-Bacon Act, or Fair Labor Standards Act to keep records of an employee's hours worked, such as because the employee is employed in a bona fide executive, administrative, or professional capacity as those terms are defined in 29 CFR part 541, the contractor may, as to that employee, calculate paid sick leave accrual by tracking the employee's actual hours worked or by using the assumption that the employee works 40 hours on or in connection with a covered contract in each workweek. If such an employee regularly works fewer than 40 hours per week on or in connection with covered contracts, whether because the employee's time is split between covered and non-