



1 July 2014

Ref. No. 2013 - 2571

Circular on Labour Clauses in Public Contracts

1. The purpose of this Circular is ensuring that employees of enterprises that provide services to public authorities and contracting entities are granted common pay and working conditions through the use of labour clauses in accordance with ILO Convention No. 94 concerning Labour Clauses in Public Contracts. The Convention can be found on http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C094

2.-(1) All central authorities (ministries, executive agencies, etc.) must apply labour clauses as set out in section 4 in all contracts for construction and civil engineering works, manufacture and production or provision of services irrespective of the amount of the contract sum.

(2) Other central contracting parties, including companies that are wholly owned by central authorities and not part of any competition, must apply labour clauses when entering into contracts in the construction and civil engineering area.

(3) Each particular ministry may determine whether and in what way labour clauses must be applied to other contracts entered into by other entities than central authorities.

(4) There is no requirement for application of labour clauses to contracts concerning the purchase of goods that are part of a contractor's ordinary production or stocks, unless the product is manufactured in a custom-made production for a central authority.

3.-(1) The contracting authority must set requirements in the contract to ensure that workers employed by contractors and any sub-contractors who contribute to the performance of the contract are secured pay (including special allowances), hours of work and other working conditions which are not less favourable than those established for work of the same character under a collective agreement entered into by the most representative organisations of workers and employers in Denmark in the trade or industry concerned being in force throughout the Danish territory.

(2) In this connection, several collective agreements entered into with the same employers' association and under the same workers' organisation and with terms that may be considered uniform and together cover the entire country will also be

considered as one collective agreement being in force throughout the Danish territory.

4. In its notice of procurement or tender conditions the contracting authority must disclose the requirement for application of labour clauses.

5.-(1) In the contract entered into with the contractor, the contracting authority must demand the application of labour clauses. The contract must include provisions that specify the documentation requirements to be met by the contractor, proving the application of and compliance with the labour clause.

(2) It must appear from the contract that the contractor and any subcontractors must ensure that their workers receive information about the conditions resulting from the labour clause.

6. The contract must indicate the consequences that will be imposed if the contractor and any subcontractors fail to comply with the labour clause or do not observe the documentation requirements. The sanction must be effective, proportionate to the extent of non-compliance and have a deterring effect.

7. The contracting authority must carry out the necessary checking of whether the contractor and any sub-contractors comply with the labour clause.

8. It is recommended that all local councils and regional authorities apply labour clauses in construction and civil engineering contracts according to the guidelines of this Circular irrespective of the amount of the contract sum and in other contracts where it may be appropriate.

9. This Circular enters into force as from 1 July 2014. On the same date, the Circular of the Ministry of Labour of 18 May 1966 and Circular No. 115 of the Ministry of Labour of 27 June 1990 on Labour Clauses in Public Contracts will be repealed.