SAP Construction Clauses for Awards Under $350K

Under the Federal Acquisition Regulation (FAR), construction projects awarded using Simplified Acquisition Procedures (SAP) under the Simplified Acquisition Threshold (SAT) of **$350,000** (effective October 1, 2025) are subject to specific streamlined contracting clauses.

Federal contracting officers use **FAR 52.213-4** (*Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services)*) as the umbrella clause to incorporate critical regulations by reference. Below are the key SAP construction clauses and statutory requirements that apply to acquisitions in this dollar range:

1. Key Labor Standards, Wage, & Compliance Requirements

- **FAR 52.222-90 (Addressing DEI Discrimination by Federal Contractors):** Effective April 2026 (implementing EO 14398), this clause is **mandatory** for all solicitations and contracts exceeding the micro-purchase threshold ($15,000) when performance occurs in the United States. It prohibits contractors from engaging in racially discriminatory diversity, equity, and inclusion (DEI) activities in employment, contracting, or program participation, and must be flowed down to all subcontracts.
- **FAR 52.222-6 (Construction Wage Rate Requirements / Davis-Bacon Act):** Mandatory for all construction contracts over **$2,000**. Requires payment of prevailing local wages and benefits determined by the Department of Labor.
- **FAR 52.222-7 through 52.222-15:** Covers secondary labor requirements including withholding of funds, payrolls and basic records, apprentices and trainees, and compliance with Copeland Act requirements.
- **FAR 52.222-27 (Affirmative Action Compliance Requirements for Construction):** Applies to all construction solicitations and contracts.
- **FAR 52.222-55 (Minimum Wages for Contractor Workers Under Executive Order 14026):** Establishes baseline minimum wages for federal contractor personnel.
- **FAR 52.222-62 (Paid Sick Leave Under Executive Order 13706):** Applies to contracts covered by the Davis-Bacon Act.

2. Bonds and Insurance (Under $350K Rules)

- **FAR 52.228-13 (Alternative Payment Protections):** Required for construction contracts valued between **$35,000 and $150,000**. Instead of standard performance/payment bonds, the contractor must provide an approved alternative (e.g., an escrow agreement, irrevocable letter of credit, or tripartite agreement).
- **FAR 52.228-15 (Performance and Payment Bonds—Construction):** For awards exceeding **$150,000** up to the $350,000 limit, contracting officers can require standard performance and payment bonds if determined necessary to protect the government's interest.

- **FAR 52.228-5 (Insurance—Work on a Government Installation):** Required if work is to be performed on a federal facility.

3. Domestic Sourcing & Material Requirements

- **FAR 52.225-9 (Buy American—Construction Materials):** Establishes preference for domestic construction materials.
- **FAR 52.223-2 (Reporting of Biobased Products Under Service and Construction Contracts):** Applies if the contract specifies USDA-designated biobased products.

4. FAR Part 36 Construction-Specific Clauses (CO Discretionary under SAT)

Under **FAR Part 36**, certain clauses are mandatory *only* for awards exceeding the SAT (>$350,000), but contracting officers have **discretionary authority** to insert them in SAP awards under $350,000 when advantageous:

Clause Number	Clause Title	Application Policy for < $350K
FAR 52.236-2	Differing Site Conditions	Optional/At CO's discretion.
FAR 52.236-3	Site Investigation and Conditions Affecting the Work	Optional/At CO's discretion.
FAR 52.236-5	Material and Workmanship	**Mandatory** for all construction contracts.
FAR 52.236-6	Superintendence by the Contractor	Optional/At CO's discretion.
FAR 52.236-7	Permits and Responsibilities	**Mandatory** for all fixed-price construction contracts.
FAR 52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements	Optional/At CO's discretion.
FAR 52.236-12	Cleaning Up	Optional/At CO's discretion.
FAR 52.236-13	Accident Prevention	Optional/At CO's discretion (unless hazardous).
FAR 52.236-21	Specifications and Drawings for Construction	Optional/At CO's discretion.

Key Takeaway

Construction contracts under $350,000 utilize **FAR 52.213-4** to streamline general terms, but they **must still strictly comply** with the **Davis-Bacon Act (prevailing wages)** for any work over $2,000, incorporate the new **FAR 52.222-90 anti-discrimination mandate** for awards over $15,000, and utilize **Alternative Payment Protections** rather than standard performance bonds for awards under $150,000.