

consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and

(d) The deduction serves the convenience and interest of the employee.

**§ 3.7 Applications for the approval of the Secretary of Labor.**

Any application for the making of payroll deductions under § 3.6 shall comply with the requirements prescribed in the following paragraphs of this section:

(a) The application shall be in writing and shall be addressed to the Secretary of Labor.

(b) The application need not identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions on all current and future contracts of the applicant for a period of 1 year. A renewal of permission to make such payroll deduction will be granted upon the submission of an application which makes reference to the original application, recites the date of the Secretary of Labor's approval of such deductions, states affirmatively that there is continued compliance with the standards set forth in the provisions of § 3.6, and specifies any conditions which have changed in regard to the payroll deductions.

(c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of § 3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.

(d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.

(e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

[29 FR 97, Jan. 4, 1964, as amended at 36 FR 9771, May 28, 1971]

**§ 3.8 Action by the Secretary of Labor upon applications.**

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of § 3.6; and shall notify the applicant in writing of his decision.

**§ 3.9 Prohibited payroll deductions.**

Deductions not elsewhere provided for by this part and which are not found to be permissible under § 3.6 are prohibited.

**§ 3.10 Methods of payment of wages.**

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized on work subject to the Copeland Act.

**§ 3.11 Regulations part of contract.**

All contracts made with respect to the construction, prosecution, completion, or repair of any public building or public work or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see § 5.5(a) of this subtitle.

**PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS**

**Subpart A—Service Contract Labor Standards Provisions and Procedures**

Sec.

4.1 Purpose and scope.

4.1a Definitions and use of terms.

4.1b Payment of minimum compensation based on collectively bargained wage rates and fringe benefits applicable to employment under predecessor contract.

4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.

4.3 Wage determinations.

4.4 Notice of intention to make a service contract.

4.5 Contract specification of determined minimum wages and fringe benefits.

**Pt. 4**

- 4.6 Labor standards clauses for Federal service contracts exceeding \$2,500.
- 4.7 [Reserved]
- 4.8 Notice of awards.
- 4.9 [Reserved]
- 4.10 Substantial variance proceedings under section 4(c) of the Act.
- 4.11 Arm's-length proceedings.
- 4.12 Substantial interest proceedings.

**Subpart B—Wage Determination Procedures**

- 4.50 Types of wage and fringe benefit determinations.
- 4.51 Prevailing in the locality determinations.
- 4.52 Fringe benefit determinations.
- 4.53 Collective bargaining agreement (successorship) determinations.
- 4.54 Locality basis of wage and fringe benefit determinations.
- 4.55 Issuance and revision of wage determinations.
- 4.56 Review and reconsideration of wage determinations.

**Subpart C—Application of the McNamara-O'Hara Service Contract Act**

INTRODUCTORY

- 4.101 Official rulings and interpretations in this subpart.
- 4.102 Administration of the Act.
- 4.103 The Act.
- 4.104 What the Act provides, generally.
- 4.105 The Act as amended.
- 4.106 [Reserved]

AGENCIES WHOSE CONTRACTS MAY BE COVERED

- 4.107 Federal contracts.
- 4.108 District of Columbia contracts.
- 4.109 [Reserved]

COVERED CONTRACTS GENERALLY

- 4.110 What contracts are covered.
- 4.111 Contracts "to furnish services."
- 4.112 Contracts to furnish services "in the United States."
- 4.113 Contracts to furnish services "through the use of service employees."
- 4.114 Subcontracts.

SPECIFIC EXCLUSIONS

- 4.115 Exemptions and exceptions, generally.
- 4.116 Contracts for construction activity.
- 4.117 Work subject to requirements of Walsh-Healey Act.
- 4.118 Contracts for carriage subject to published tariff rates.
- 4.119 Contracts for services of communications companies.
- 4.120 Contracts for public utility services.
- 4.121 Contracts for individual services.

**29 CFR Subtitle A (7-1-04 Edition)**

- 4.122 Contracts for operation of postal contract stations.
- 4.123 Administrative limitations, variations, tolerances, and exemptions.
- 4.124-4.129 [Reserved]

PARTICULAR APPLICATION OF CONTRACT COVERAGE PRINCIPLES

- 4.130 Types of covered service contracts illustrated.
- 4.131 Furnishing services involving more than use of labor.
- 4.132 Services and other items to be furnished under a single contract.
- 4.133 Beneficiary of contract services.
- 4.134 Contracts outside the Act's coverage.
- 4.135-4.139 [Reserved]

DETERMINING AMOUNT OF CONTRACT

- 4.140 Significance of contract amount.
- 4.141 General criteria for measuring amount.
- 4.142 Contracts in an indefinite amount.

CHANGES IN CONTRACT COVERAGE

- 4.143 Effects of changes or extensions of contracts, generally.
- 4.144 Contract modifications affecting amount.
- 4.145 Extended term contracts.

PERIOD OF COVERAGE

- 4.146 Contract obligations after award, generally.
- 4.147-4.149 [Reserved]

EMPLOYEES COVERED BY THE ACT

- 4.150 Employee coverage, generally.
- 4.151 Employees covered by provisions of section 2(a).
- 4.152 Employees subject to prevailing compensation provisions of sections 2(a) (1) and (2) and 4(c).
- 4.153 Inapplicability of prevailing compensation provisions to some employees.
- 4.154 Employees covered by sections 2(a) (3) and (4).
- 4.155 Employee coverage does not depend on form of employment contract.
- 4.156 Employees in bona fide executive, administrative, or professional capacity.
- 4.157-4.158 [Reserved]

**Subpart D—Compensation Standards**

- 4.159 General minimum wage.
- 4.160 Effect of section 6(e) of the Fair Labor Standards Act.
- 4.161 Minimum monetary wages under contracts exceeding \$2,500.
- 4.162 Fringe benefits under contracts exceeding \$2,500.
- 4.163 Section 4(c) of the Act.
- 4.164 [Reserved]

## Office of the Secretary of Labor

## § 4.1a

### COMPLIANCE WITH COMPENSATION STANDARDS

- 4.165 Wage payments and fringe benefits—in general.
- 4.166 Wage payments—unit of payment.
- 4.167 Wage payments—medium of payment.
- 4.168 Wage payments—deductions from wages paid.
- 4.169 Wage payments—work subject to different rates.
- 4.170 Furnishing fringe benefits or equivalents.
- 4.171 “Bona fide” fringe benefits.
- 4.172 Meeting requirements for particular fringe benefits—in general.
- 4.173 Meeting requirements for vacation fringe benefits.
- 4.174 Meeting requirements for holiday fringe benefits.
- 4.175 Meeting requirements for health, welfare, and/or pension benefits.
- 4.176 Payment of fringe benefits to temporary and part-time employees.
- 4.177 Discharging fringe benefit obligations by equivalent means.
- 4.178 Computation of hours worked.
- 4.179 Identification of contract work.

### OVERTIME PAY OF COVERED EMPLOYEES

- 4.180 Overtime pay—in general.
- 4.181 Overtime pay provisions of other Acts.
- 4.182 Overtime pay of service employees entitled to fringe benefits.

### NOTICE TO EMPLOYEES

- 4.183 Employees must be notified of compensation required.
- 4.184 Posting of notice.

### RECORDS

- 4.185 Recordkeeping requirements.
- 4.186 [Reserved]

### Subpart E—Enforcement

- 4.187 Recovery of underpayments.
- 4.188 Ineligibility for further contracts when violations occur.
- 4.189 Administrative proceedings relating to enforcement of labor standards.
- 4.190 Contract cancellation.
- 4.191 Complaints and compliance assistance.

AUTHORITY: 41 U.S.C. 351 *et seq.*; 41 U.S.C. 38 and 39; 5 U.S.C. 301.

SOURCE: 48 FR 49762, Oct. 27, 1983, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 4 appear at 61 FR 19984, May 3, 1996.

## Subpart A—Service Contract Labor Standards and Procedures

### § 4.1 Purpose and scope.

This part contains the Department of Labor's rules relating to the administration of the McNamara-O'Hara Service Contract Act of 1965, as amended, referred to hereinafter as the Act. Rules of practice for administrative proceedings under the Act and for the review of wage determinations are contained in parts 6 and 8 of this chapter. See part 1925 of this title for the safety and health standards applicable under the Service Contract Act.

### § 4.1a Definitions and use of terms.

As used in this part, unless otherwise indicated by the context—

(a) *Act*, *Service Contract Act*, *McNamara-O'Hara Act*, or *Service Contract Act of 1965* shall mean the Service Contract Act of 1965 as amended by Public Law 92-473, 86 Stat. 789, effective October 9, 1972, Public Law 93-57, 87 Stat. 140, effective July 6, 1973, and Public Law 94-489, 90 Stat. 2358, effective October 13, 1976 and any subsequent amendments thereto.

(b) *Secretary* includes the Secretary of Labor, the Deputy Under Secretary for Employment Standards, and their authorized representatives.

(c) *Wage and Hour Division* means the organizational unit in the Employment Standards Administration of the Department of Labor to which is assigned the performance of functions of the Secretary under the Service Contract Act of 1965, as amended.

(d) *Administrator* means the Administrator of the Wage and Hour Division, or authorized representative.

(e) *Contract* includes any contract subject wholly or in part to the provisions of the Service Contract Act of 1965 as amended, and any subcontract of any tier thereunder. (See §§4.10-4.134.)

(f) *Contractor* includes a subcontractor whose subcontract is subject to provisions of the Act. Also, the term *employer* means, and is used interchangeably with, the terms *contractor* and *subcontractor* in various sections in