

District Government are contracts entered into by the District of Columbia within the meaning of this provision. Such contracts are also considered contracts entered into with the Federal Government or the United States within the meaning of section 2(b), section 5, and the other provisions of the Act. The legislative history indicates no intent to distinguish District of Columbia contracts from the other contracts made subject to the Act, and traditionally, under other statutes, District Government contracts have been made subject to the same labor standards provisions as contracts of agencies and instrumentalities of the United States.

[48 FR 49762, Oct. 27, 1983; 48 FR 50529, Nov. 2, 1983]

§ 4.109 [Reserved]

COVERED CONTRACTS GENERALLY

§ 4.110 What contracts are covered.

The Act covers service contracts of the Federal agencies described in §§ 4.107-4.108. Except as otherwise specifically provided (see §§ 4.115 *et seq.*), all such contracts, the principal purpose of which is to furnish services in the United States through the use of service employees, are subject to its terms. This is true of contracts entered into by such agencies with States or their political subdivisions, as well as such contracts entered into with private employers. Contracts between a Federal or District of Columbia agency and another such agency are not within the purview of the Act; however, "sub-contracts" awarded under "prime contracts" between the Small Business Administration and another Federal agency pursuant to various preferential set-aside programs, such as the 8(a) program, are covered by the Act. It makes no difference in the coverage of a contract whether the contract services are procured through negotiation or through advertising for bids. Also, the mere fact that an agreement is not reduced to writing does not mean that the contract is not within the coverage of the Act. The amount of the contract is not determinative of the Act's coverage, although the requirements are different for contracts in excess of \$2,500 and for contracts of

a lesser amount. The Act is applicable to the contract if the principal purpose of the contract is to furnish services, if such services are to be furnished in the United States, and if service employees will be used in providing such services. These elements of coverage will be discussed separately in the following sections.

§ 4.111 Contracts "to furnish services."

(a) "*Principal purpose*" as criterion. Under its terms, the Act applies to a "contract * * * the principal purpose of which is to furnish services * * *." If the principal purpose is to provide something other than services of the character contemplated by the Act and any such services which may be performed are only incidental to the performance of a contract for another purpose, the Act does not apply. However, as will be seen by examining the illustrative examples of covered contracts in §§ 4.130 *et seq.*, no hard and fast rule can be laid down as to the precise meaning of the term *principal purpose*. This remedial Act is intended to be applied to a wide variety of contracts, and the Act does not define or limit the types of services which may be contracted for under a contract the principal purpose of which is to furnish services. Further, the nomenclature, type, or particular form of contract used by procurement agencies is not determinative of coverage. Whether the principal purpose of a particular contract is the furnishing of services through the use of service employees is largely a question to be determined on the basis of all the facts in each particular case. Even where tangible items of substantial value are important elements of the subject matter of the contract, the facts may show that they are of secondary import to the furnishing of services in the particular case. This principle is illustrated by the examples set forth in § 4.131.

(b) *Determining whether a contract is for "services", generally.* Except indirectly through the definition of *service employee* the Act does not define, or limit, the types of *services* which may be contracted for under a contract "the principal purpose of which is to furnish