

§ 4.53

where an agency is unable to obtain contractors willing to bid on a contract because the service will be performed at the contractor's facility by employees performing work for the Government and other customers, and as a result, paying the required SCA fringe benefits would cause undue disruption to the contractor's own work force and pay practices.

(2) It will also be necessary for the agency to demonstrate that a variance is in accordance with the remedial purpose of the Act to protect prevailing labor standards, by providing comprehensive data from a valid survey demonstrating the prevailing fringe benefits for the specific industry. If the agency does not continue to provide current data in subsequent years, the variance will be withdrawn and the rate prescribed in paragraph (a) of this section will be issued for the contract.

[61 FR 68664, Dec. 30, 1996]

§ 4.53 Collective bargaining agreement (successorship) determinations.

Determinations based on the collective bargaining agreement of a predecessor contractor set forth by job classification each provision relating to wages (such as the established straight time hourly or salary rate, cost-of-living allowance, and any shift, hazardous, and other similar pay differentials) and to fringe benefits (such as holiday pay, vacation pay, sick leave pay, life, accidental death, disability, medical, and dental insurance plans, retirement or pension plans, severance pay, supplemental unemployment benefits, saving and thrift plans, stock-option plans, funeral leave, jury/witness leave, or military leave) contained in the predecessor's collective bargaining agreement, as well as conditions governing the payment of such wages and fringe benefits. Accrued wages and fringe benefits and prospective increases therein are also included. Each wage determination is limited in application to a specific contract succeeding a contract which had been performed in the same locality by a contractor with a collective bargaining agreement, and contains a notice to prospective bid-

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ders regarding their obligations under section 4(c) of the Act.

[48 FR 49762, Oct. 27, 1983. Redesignated at 61 FR 68664, Dec. 30, 1996]

§ 4.54 Locality basis of wage and fringe benefit determinations.

(a) Under section 2(a) of the Act, the Secretary or his authorized representative is given the authority to determine the minimum monetary wages and fringe benefits prevailing for various classes of service employees "in the locality". Although the term *locality* has reference to a geographic area, it has an elastic and variable meaning and contemplates consideration of the existing wage structures which are pertinent to the employment of particular classes of service employees on the varied kinds of service contracts. Because wage structures are extremely varied, there can be no precise single formula which would define the geographic limits of a "locality" that would be relevant or appropriate for the determination of prevailing wage rates and prevailing fringe benefits in all situations under the Act. The locality within which a wage or fringe benefit determination is applicable is, therefore, defined in each such determination upon the basis of all the facts and circumstances pertaining to that determination. Locality is ordinarily limited geographically to a particular county or cluster of counties comprising a metropolitan area. For example, a survey by the Bureau of Labor Statistics of the Baltimore, Maryland Standard Metropolitan Statistical Area includes the counties of Baltimore, Harford, Howard, Anne Arundel, and the City of Baltimore. A wage determination based on such information would define locality as the same geographic area included within the scope of the survey. Locality may also be defined as, for example, a city, a State, or, under rare circumstances, a region, depending on the actual place or places of contract performance, the geographical scope of the data on which the determination was based, the nature of the services being contracted for, and the procurement method used. In addition, in *Southern Packaging & Storage Co. v. United States*, 618 F.2d 1088