Service Contract Act
Subcontractor Briefing

PREPARED: JUNE 2012

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Purpose

- Provide basic information for compliance with the Service Contract Act (SCA) when performing work for the Mission Support Alliance, LLC (MSA).
The Service Contract Act of 1965

- The Service Contract Act (SCA) applies to most federally funded contracts and subcontracts in excess of $2,500.00, when the principal purpose is to furnish services by service employees. It requires employers to pay service employees *no less than* the prevailing wage rates and fringe benefits in the locality.

- A “service employee” includes any employee engaged in performing services on a covered subcontractor *other than* a bona fide executive, administrative, or professional employee as defined by 29 CFR 541.

- The SCA does not apply to some types of contractual services. For exemption questions, contact your cognizant Contract Specialist.
MSA flow down of the Service Contract Act is set forth:

- In the body of the subcontract (typically Section H), and
- In the General Provisions attached to the subcontract as a Federal Acquisition Regulation clause (52.222-41) by reference.
Key requirement of the SCA is for the payment of minimum wages and fringe benefits to covered workers.

The minimum wages and fringe benefits are set out in an applicable Department of Labor Wage Determination. MSA provides the applicable Wage Determination to its subcontractors.
Wage Determinations

- Wage Determinations are updated annually by the Department of Energy modifying the MSA Prime Contract.
- MSA will provide written notice to all current SCA covered subcontractors when the Wage Determination has been updated.
- The new levels are effective to the subcontractor on the date of notification by MSA.
- The SCA allows the subcontractor to submit a request for price adjustment if warranted due to the update.
Wages

- Payment of wages and benefits must be in a timely manner.
- Pay periods may not be longer than semi-monthly.
- There is no distinction between part-time and temporary employees.
Typical SCA Compliance Questions

- Are employees properly classified?
  - A job classification determination is based on the actual work the employee is doing and not necessarily the job title or HR classification.
  - Job classification may evolve as the work being performed varies or changes with MSA.
  - Employees who perform multiple functions must be paid based on the highest wage determination of the applicable job classification.
Typical SCA Compliance Questions

- Are fringe benefits being properly paid?
  - Still applicable to part-time employees on a proportionate basis.
  - Must be listed separately on employees pay records.
  - Must be a bona fide program that meets specific criteria.
Typical SCA Compliance Questions

- Holiday and Vacation pay?
  - Holiday days are set forth in the applicable Wage Determination provided to the subcontractor.
  - Vacation pay is only payable once the individual has worked for more than twelve months. Note, the time calculation must also include time worked with a predecessor employer as well.
  - Holiday pay and vacation pay (if eligible) is payable to part-time employees on a proportionate basis. Must be listed separately on employees pay records.
Typical SCA Compliance Questions

- Overtime Pay?
  - SCA does not provide premium rates for overtime hours of work. However, other Federal labor laws cover this topic.
  - Overtime pay is calculated at 1-1/2 times the employee’s basic hourly wage rate beyond the normal work week.
Typical SCA Compliance Questions

- Recordkeeping requirements?
  - Subcontractor must maintain for each employee for 3 years from completion of the period of performance:
    - Copy of the subcontract,
    - Name, address and social security number,
    - Work classification, wages and benefits,
    - Daily/weekly compensation and hours worked and any payroll deductions, and
    - Length of service list of the predecessor contractor.
Questions

- The Department of Labor Field Handbook is available at [www.dol.gov](http://www.dol.gov) for more in-depth information.

- If you have additional questions as to the application of the Service Contract Act to a subcontract with MSA, please contact your cognizant Contract Specialist.