

# Service Contract Act Subcontractor Briefing



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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.

# Flow downs



**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.**

# Wage Determination



- 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.