

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Wage and Hour Division
WASHINGTON, D.C. 20210



November 30, 1976

MEMORANDUM NO. 127

TO: All Government Contracting Agencies of the
Federal Government and the District of Columbia

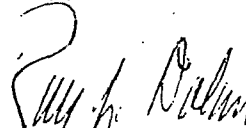
SUBJECT: Service Contract Act Amendments of 1976
(PL 94-489)

The President has signed amendments to the Service Contract Act, effective on October 13, 1976.

These amendments were enacted for the purpose of clarifying Congressional intent that the term "service employee" as defined in section 8(b) of the Act encompasses all persons engaged in the performance of a contract entered into by the United States, the principal purpose of which is the furnishing of services, other than those individuals employed in a bona fide executive, administrative, or professional capacity as those terms are defined and delimited in Title 29, Code of Federal Regulations, Part 541. Thus, Congress has made it clear that both so-called "white collar" and "blue collar" workers are subject to the Act and that Federal service contracts utilizing white collar workers (such as clerical, computer, technical, and most engineering contracts) are subject to the Act.

The other major amendment requires the Department of Labor to give "due consideration" to Federal "white collar" (GS) wage rates and fringe benefits in issuing prevailing wage determinations under the Act. Additional instructions affecting the preparation and submission of SF-98s (Notice of Intention to Make a Service Contract) will be issued shortly.

A copy of the amendments is attached.


Ray J. Dolan
Assistant Administrator

Public Law 94-489
94th Congress

An Act

Oct. 13, 1976
[H.R. 15246]

To amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such Act, and for other purposes.

Service Contract
Act of 1965,
amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351 (a)) is amended by striking out “, as defined herein,”;

(b) section 2(b) of the Service Contract Act of 1965 (41 U.S.C. 351(b)) is amended by striking out “as defined herein”.

SEC. 2. Section (a) (5) of the Service Contract Act of 1965 (41 U.S.C. 351(a) (5)) is amended by inserting immediately after “section 5341” the following: “or section 5332”.

“Service
employee.”

SEC. 3. Section 8(b) of the Service Contract Act of 1965 (41 U.S.C. 357(b)) is amended to read as follows:

“(b) The term ‘service employee’ means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.”.

Approved October 13, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1.71 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Sept. 21, considered and passed House.

Sept. 30, considered and passed Senate.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.