§ 4.183 Employees must be notified of compensation required.

The Act, in section 2(a)(4), and the regulations thereunder in §4.6(e), require all contracts subject to the Act which are in excess of $2,500 to contain a clause requiring the contractor or subcontractor to notify each employee commencing work on a contract to which the Act applies of the compensation required to be paid such employee under section 2(a)(1) and the fringe benefits required to be furnished under section 2(a)(2). A notice form (WH Publication 1313 and any applicable wage determination) provided by the Wage and Hour Division is to be used for this purpose. It may be delivered to the employee or posted as stated in §4.184.

§ 4.184 Posting of notice.

Posting of the notice provided by the Wage and Hour Division shall be in a prominent and accessible place at the worksite, as required by §4.6(e). The display of the notice in a place where it may be seen by employees performing on the contract will satisfy the requirement that it be in a "prominent and accessible place". Should display be necessary at more than one site, in order to assure that it is seen by such employees, additional copies of the poster may be obtained without cost from the Division. The contractor or subcontractor is required to notify each employee of the compensation due or attach to the poster any applicable wage determination specified in the contract listing all minimum monetary wages and fringe benefits to be paid or furnished to the classes of service employees performing on the contract.

NOTICE TO EMPLOYEES

§ 4.183 Employees must be notified of compensation required.

The Act, in section 2(a)(4), and the regulations thereunder in §4.6(e), require all contracts subject to the Act which are in excess of $2,500 to contain a clause requiring the contractor or subcontractor to notify each employee commencing work on a contract to which the Act applies of the compensation required to be paid such employee under section 2(a)(1) and the fringe benefits required to be furnished under section 2(a)(2). A notice form (WH Publication 1313 and any applicable wage determination) provided by the Wage and Hour Division is to be used for this purpose. It may be delivered to the employee or posted as stated in §4.184.

§ 4.184 Posting of notice.

Posting of the notice provided by the Wage and Hour Division shall be in a prominent and accessible place at the worksite, as required by §4.6(e). The display of the notice in a place where it may be seen by employees performing on the contract will satisfy the requirement that it be in a "prominent and accessible place". Should display be necessary at more than one site, in order to assure that it is seen by such employees, additional copies of the poster may be obtained without cost from the Division. The contractor or subcontractor is required to notify each employee of the compensation due or attach to the poster any applicable wage determination specified in the contract listing all minimum monetary wages and fringe benefits to be paid or furnished to the classes of service employees performing on the contract.

RECORDS

§ 4.185 Recordkeeping requirements.

The records which a contractor or subcontractor is required to keep concerning employment of employees subject to the Act are specified in §4.6(g) of subpart A of this part. They are required to be maintained for 3 years from the completion of the work, and must be made available for inspection and transcription by authorized representatives of the Administrator. Such records must be kept for each service employee performing work under the contract, for each workweek during the performance of the contract. If the required records are not separately kept for the service employees performing on the contract, it will be presumed, in the absence of affirmative proof to the contrary, that all service employees in the department or establishment where the contract was performed were engaged in covered work during the period of performance. (See §4.179.)

§ 4.186 Reserved

Subpart E—Enforcement

§ 4.187 Recovery of underpayments.

(a) The Act, in section 3(a), provides that any violations of any of the contract stipulations required by sections 2(a)(1), 2(a)(2), or 2(b) of the Act, shall render the party responsible liable for the amount of any deductions, rebates, refunds, or underpayments (which includes non-payment) of compensation due to any employee engaged in the performance of the contract. So much of the accrued payments due either on the contract or on any other contract...
(whether subject to the Service Contract Act or not) between the same contractor and the Government may be withheld in a deposit fund as is necessary to pay the employees. In the case of requirements-type contracts, it is the contracting agency, and not the using agencies, which has the responsibility for complying with a withholding request by the Secretary or authorized representative. The Act further provides that on order of the Secretary (or authorized representatives), any compensation which the head of the Federal agency or the Secretary has found to be due shall be paid directly to the underpaid employees from any accrued payments withheld. In order to effectuate the efficient administration of this provision of the Act, such withheld funds shall be transferred to the Department of Labor for disbursement to the underpaid employees on order of the Secretary or his authorized representatives, an Administrative Law Judge, or the Administrative Review Board, and are not paid directly to such employees by the contracting agency without the express prior consent of the Department of Labor. (See Decision of the Comptroller General, B–170784, February 17, 1971.) It is mandatory for a contracting officer to adhere to a request from the Department of Labor to withhold funds where such funds are available. (See Decision of the Comptroller General, B–109257, October 14, 1952, arising under the Walsh-Healey Act.) Contract funds which are or may become due a contractor under any contract with the United States may be withheld prior to the institution of administrative proceedings by the Secretary. (McCusland v. U.S., Post. Service, 82 CCH Labor Cases ¶33,607 (N.D. N.Y. 1977); G & H Machinery Co. v. Donovan, 96 CCH Labor Cases ¶34,354 (S.D. Ill. 1982).)

(b) Priority to withheld funds. The Comptroller General has afforded employee wage claims priority over an Internal Revenue Service levy for unpaid taxes. (See Decisions of the Comptroller General, B–170784, February 17, 1971; B–189137, August 1, 1977; 56 Comp. Gen. 499 (1977); 55 Comp. Gen. 744 (1976), arising under the Davis-Bacon Act; B–178198, August 30, 1973; B–161460, May 25, 1967.)

(1) As the Comptroller General has stated, “[t]he legislative histories of these labor statutes [Service Contract Act and Contract Work Hours and Safety Standards Act, 41 U.S.C. 327, et seq.] disclose a progressive tendency to extend a more liberal interpretation and construction in successive enactments with regard to worker’s benefits, recovery and repayment of wage underpayments. Further, as remedial legislation, it is axiomatic that they are to be liberally construed”. (Decision of the Comptroller General, B–170784, February 17, 1971.)

(2) Since section 3(a) of the Act provides that accrued contract funds withheld to pay employees wages must be held in a deposit fund, it is the position of the Department of Labor that monies so held may not be used or set aside for agency reprocurement costs. To hold otherwise would be inequitable and contrary to public policy, since the employees have performed work from which the Government has received the benefit (see National Surety Corporation v. U.S., 132 Ct. Cl. 724, 728, 135 F. Supp. 381 (1955), cert. denied, 350 U.S. 902), and to give contracting agency reprocurement claims priority would be to require employees to pay for the breach of contract between the employer and the agency. The Comptroller General has sanctioned priority being afforded wage underpayments over the reprocurement costs of the contracting agency following a contractor’s default or termination for cause. Decision of the Comptroller General, B–167000, June 26, 1969; B–178198, August 30, 1973; and B–189137, August 1, 1977.

(3) Wage claims have priority over reprocurement costs and tax liens without regard to when the competing claims were raised. See Decisions of the Comptroller General, B–161460, May 25, 1967; B–189137, August 1, 1977.

(4) Wages due workers underpaid on the contract have priority over any assignee of the contractor, including assignments made under the Assignment of Claims Act, 31 U.S.C. 203, 41 U.S.C. 15, to funds withheld under the contract, since an assignee can acquire no greater rights to withheld funds than the assignor has in the absence of an assignment. See Modern Industrial Bank

(5) The Comptroller General, recognizing that unpaid laborers have an equitable right to be paid from contract retainages, has also held that wage underpayments under the Act have priority over any claim by the trustee in bankruptcy. 56 Comp. Gen. 499 (1977), citing Pearlman v. Reliance Insurance Company, 371 U.S. 132 (1962); Hadden v. United States, 132 Ct. Cl. 529 (1955), in which the courts gave priority to sureties who had paid unpaid laborers over the trustee in bankruptcy.

c) Section 5(b) of the Act provides that if the accrued payments withheld under the terms of the contract are insufficient to reimburse all service employees with respect to whom there has been a failure to pay the compensation required pursuant to the Act, the United States may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayments. The Service Contract Act is not subject to the statute of limitations in the Portal to Portal Act, 29 U.S.C. 255, and contains no prescribed period within which such an action must be instituted; it has therefore been held that the general period of six years prescribed by 28 U.S.C. 2415 applies to such actions. United States of America v. Deluxe Cleaners and Laundry, Inc., 511 F. 2d 929 (C.A. 4, 1975). Any sums thus recovered by the United States shall be held in the deposit fund and shall be paid, on the order of the Secretary, directly to the underpaid employees. Any sum not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

d) Releases or waivers executed by employees for unpaid wages and fringe benefits due them are without legal effect. As stated by the Supreme Court in Brooklyn Savings Bank v. O’Neill, 324 U.S. 697, 704, (1945), arising under the Fair Labor Standards Act:

"Where a private right is granted in the public interest to effectuate a legislative policy, waiver of a right so charged or colored with the public interest will not be allowed where it would thwart the legislative policy which it was designed to effectuate."


Further, as noted above, monies not paid to employees to whom they are due because of violation are covered into the U.S. Treasury as provided by section 5(b) of the Act.

e)(1) The term party responsible for violations in section 3(a) of the Act is the same term as contained in the Walsh-Healey Public Contracts Act, and therefore, the same principles are applied under both Acts. An officer of a corporation who actively directs and supervises the contract performance, including employment policies and practices and the work of the employees working on the contract, is a party responsible and liable for the violations, individually and jointly with the company (S & G Coal Sales, Inc., Decision of the Hearing Examiner, PC-946, January 21, 1965, affirmed by the Administrator June 8, 1965; Tennessee Processing Co., Inc., Decision of the Hearing Examiner, PC-790, September 28, 1965).

(2) The failure to perform a statutory public duty under the Service Contract Act is not only a corporate liability but also the personal liability of each officer charged by reason of his or her corporate office while performing that

(3) In essence, individual liability attaches to the corporate official who is responsible for, and therefore causes or permits, the violation of the contract stipulations required by the Act, i.e., corporate officers who control the day-to-day operations and management policy are personally liable for underpayments because they cause or permit violations of the Act.

(4) It has also been held that the personal responsibility and liability of individuals for violations of the Act is not limited to the officers of a contracting firm or to signatories to the Government contract who are bound by and accept responsibility for compliance with the Act and imposition of its sanctions set forth in the contract clauses in § 4.6, but includes all persons, irrespective of proprietary interest, who exercise control, supervision, or management over the performance of the contract, including the labor policy or employment conditions regarding the employees engaged in contract performance, and who, by action or inaction, cause or permit a contract to be breached. United States v. Islip Machine Works, Inc., 179 F. Supp. 585 (E.D. N.Y. 1959); United States v. Sancolmar Industries, Inc., 347 F. Supp. 404 (E.D. N.Y. 1972); Oscar Hestrom Corp., Decision of the Administrator, PC–257, May 7, 1946, affirmed, United States v. Hestrom, 8 Wage Hour Cases 302 (N.D. Ill. 1948); Craddock-Terry Shoe Corp., Decision of the Administrator, PC–330, October 3, 1947; Reynolds Research Corp., Decision of the Administrator, PC–381, October 24, 1951; Etowah Garment Co., Inc., Decision of the Hearing Examiner, PC–632, August 9, 1957, Decision of the Administrator, April 29, 1958; Cardinal Fuel and Supply Co., Decision of the Hearing Examiner, PC–890, June 17, 1963.

(5) Reliance on advice from contracting agency officials (or Department of Labor officials without the authority to issue rulings under the Act) is not a defense against a contractor’s liability for back wages under the Act. Standard Fabrication Ltd., Decision of the Secretary, PC–297, August 3, 1948; Airport Machining Corp., Decision of the ALJ, PC–1177, June 15, 1973; James D. West, Decision of the ALJ, SCA 397–398, November 17, 1975; Metropolitan Rehabilitation Corp., WAB Case No. 78–25, August 2, 1979; Fry Brothers Corp., WAB Case No. 76–6, June 14, 1977.

(f) The procedures for a contractor or subcontractor to dispute findings regarding violations of the Act, including back wage liability or the disposition of funds withheld by the agency for such liability, are contained in parts 6 and 8 of this title. Appeals in such matters have not been delegated to the contracting agencies and such matters cannot be appealed under the disputes clause in the contractor’s contract.

(g) While the Act provides that action may be brought against a surety to recover underpayments of compensation, there is no statutory provision requiring that contractors furnish either payment or performance bonds before an award can be made. The courts have held, however, that when such a bond has been given, including one designated as a performance rather than payment bond, and such a
§ 4.188 Ineligibility for further contracts when violations occur.

(a) Section 5 of the Act provides that any person or firm found by the Secretary or the Federal agencies to have violated the Act shall be declared ineligible to receive further Federal contracts unless the Secretary recommends otherwise because of unusual circumstances. It also directs the Comptroller General to distribute a list to all agencies of the Government giving the names of persons or firms that have been declared ineligible. No contract of the United States or the District of Columbia (whether or not subject to the Act) shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest until 3 years have elapsed from the date of publication of the list containing the names of such persons or firms. This prohibition against the award of a contract to an ineligible contractor applies to the contractor in its capacity as either a prime contractor or a subcontractor. Because the Act contains no provision authorizing removal from the list of the names of such persons or firms prior to the expiration of the three-year statutory period, the Secretary is without authority to accomplish such removal (other than in situations involving mistake or legal error). On the other hand, there may be situations in which persons or firms already on the list are found in a subsequent administrative proceeding to have again violated the Act and their debarment ordered. In such circumstances, a new, three-year debarment term will commence with the republication of such names on the list.

(b)(1) The term unusual circumstances is not defined in the Act. Accordingly, the determination must be made on a case-by-case basis in accordance with the particular facts present. It is clear, however, that the effect of the 1972 Amendments is to limit the Secretary’s discretion to relieve violators from the debarred list (H. Rept. 92–1251, 92d Cong., 2d Sess. 5; S. Rept. 92–1131, 92d Cong., 2d Sess. 3–4) and that the violator of the Act has the burden of establishing the existence of unusual circumstances to warrant relief from the debarment sanction. Ventilation and Cleaning Engineers, Inc., SCA–176, Administrative Law Judge, August 23, 1973, Assistant Secretary, May 22, 1974, Secretary, October 2, 1974. It is also clear that unusual circumstances do not include any circumstances which would have been insufficient to relieve a contractor from the ineligible list prior to the 1972 amendments, or those circumstances which commonly exist in cases where violations are found, such as negligent or willful disregard of the contract requirements and of the Act and regulations, including a contractor’s plea of ignorance of the Act’s requirements where the obligation to comply with the Act is plain from the contract, failure to keep necessary records and the like. Emerald Maintenance Inc., Supplemental Decision of the ALJ, SCA–153, April 5, 1973.

(2) The Subcommittee report following the oversight hearings conducted just prior to the 1972 amendments makes it plain that the limitation of the Secretary’s discretion through the unusual circumstances language was designed in part to prevent the Secretary from relieving a contractor from the ineligible list provisions merely because the contractor paid what he was required by his contract to pay in the first place and promised to comply with the Act in the future. See, House Committee on Education and Labor, Special Subcommittee on Labor, The Plight of Service Workers under Government
Contracts 12–13 (Comm. Print 1971). As Congressman O’Hara stated: “Restoration * * * [of wages and benefits] is not in and of itself a penalty. The penalty for violation is the suspension from the right to bid on Government contracts * * *. The authority [to relieve from blacklisting] was intended to be used in situations where the violation was a minor one, or an inadvertent one, or one in which disbarment * * * would have been wholly disproportionate to the offense.” House Committee on Education and Labor, Special Subcommittee on Labor, Hearings on H.R. 6244 and H.R. 6245, 92d Cong., 1st Sess. 3 (1971).

3(i) The Department of Labor has developed criteria for determining when there are unusual circumstances within the meaning of the Act. See, e.g., Washington Moving & Storage Co., Decision of the Assistant Secretary, SCA 68, August 16, 1973, Secretary, March 12, 1974; Quality Maintenance Co., Decision of the Assistant Secretary, SCA 119, January 11, 1974. Thus, where the respondent’s conduct in causing or permitting violations of the Service Contract Act provisions of the contract is willful, deliberate or of an aggravated nature or where the violations are a result of culpable conduct such as culpable neglect to ascertain whether practices are in violation, culpable disregard of whether they were in violation or not, or culpable failure to comply with recordkeeping requirements (such as falsification of records), relief from the debarment sanction cannot be in order. Furthermore, relief from debarment cannot be in order where a contractor has a history of similar violations, or where previous violations were serious in nature.

(ii) A good compliance history, cooperation in the investigation, repayment of moneys due, and sufficient assurances of future compliance are generally prerequisites to relief. Where these prerequisites are present and none of the aggravated circumstances in the preceding paragraph exist, a variety of factors must still be considered, including whether the contractor has previously been investigated for violations of the Act, whether the contractor has committed recordkeeping violations which impeded the investigation, whether liability was dependent upon resolution of a bona fide legal issue of doubtful certainty, the contractor’s efforts to ensure compliance, the nature, extent, and seriousness of any past or present violations, including the impact of violations on unpaid employees, and whether the sums due were promptly paid.


5 Furthermore, a contractor cannot be relieved from debarment by attempting to shift his/her responsibility to subordinate employees. Security Systems, Inc., Decision of the ALJ, SCA 774–775, April 10, 1978; Ventilation & Cleaning Engineers, Inc., Decision of the Secretary, SCA 176, September 27, 1974; Ernest Roman, Decision of the Secretary, SCA 275, May 6, 1977. As the Comptroller General has stated in considering debarment under the Davis-Bacon Act, “[n]egligence of the employer to instruct his employees as to the proper method of performing his work or to see that the employee obeys his instructions renders the employer liable for injuries to third parties resulting therefrom. * * * The employer will be liable for acts of his employee within the scope of employment regardless of whether the acts were expressly or impliedly authorized. * * * Willful and malicious acts of the employee are imputable to the employer under the doctrine of respondeat superior although they might not have been consented to or expressly authorized or ratified by the employer.” (Decision of the Comptroller General, B–143608, August 1, 1961.)
§ 4.189

(6) Negligence per se does not constitute unusual circumstances. Relief on no basis other than negligence would render the effect of section 5(a) a nullity, since it was intended that only responsible bidders be awarded Government contracts. Greenwood's Transfer & Storage, Inc., Decision of the Secretary, SCA 321–326, June 1, 1976; Ventilation & Cleaning Engineers, Inc., Decision of the Secretary, SCA 176, September 27, 1974.

(c) Similarly, the term substantial interest is not defined in the Act. Accordingly, this determination, too, must be made on a case-by-case basis in light of the particular facts, and cognizant of the legislative intent “to provide to service employees safeguards similar to those given to employees covered by the Walsh-Healey Public Contracts Act”, Federal Food Services, Inc., Decision of the ALJ, SCA 585–592, November 22, 1977. Thus, guidance can be obtained from cases arising under the Walsh-Healey Act, which uses the concept “controlling interest”. See Regal Mfg. Co., Decision of the Administrator, PC–245, March 1, 1946; Acme Sportswear Co., Decision of the Hearing Examiner, PC–275, May 8, 1946; Gearcraft, Inc., Decision of the ALJ, PCX–1, May 3, 1972. In a supplemental decision of February 23, 1979, in Federal Food Services, Inc. the Judge ruled as a matter of law that the term “does not preclude every employment or financial relationship between a party under sanction and another” * * * [and that] it is necessary to look behind titles, payments, and arrangements and examine the existing circumstances before reaching a conclusion in this matter.”

(1) Where a person or firm has a direct or beneficial ownership or control of more than 5 percent of any firm, corporation, partnership, or association, a “substantial interest” will be deemed to exist. Similarly, where a person is an officer or director in a firm or the debarred firm shares common management with another firm, a “substantial interest” will be deemed to exist. Furthermore, wherever a firm is an affiliate as defined in § 4.1a(g) of subpart A, a “substantial interest” will be deemed to exist, or where a debarred person forms or participates in another firm in which he/she has comparable authority, he/she will be deemed to have a “substantial interest” in the new firm and such new firm would also be debarred (Etowah Garment Co., Inc., Decision of the Hearing Examiner, PC–632, August 9, 1957).

(2) Nor is interest determined by ownership alone. A debarred person will also be deemed to have a “substantial interest” in a firm if such person has participated in contract negotiations, is a signatory to a contract, or has the authority to establish, control, or manage the contract performance and/or the labor policies of a firm. A “substantial interest” may also be deemed to exist, in other circumstances, after consideration of the facts of the individual case. Factors to be examined include, among others, sharing of common premises or facilities, occupying any position such as manager, supervisor, or consultant to, any such entity, whether compensated on a salary, bonus, fee, dividend, profit-sharing, or other basis of remuneration, including indirect compensation by virtue of family relationships or otherwise. A firm will be particularly closely examined where there has been an attempt to sever an association with a debarred firm or where the firm was formed by a person previously affiliated with the debarred firm or a relative of the debarred person.

(3) Firms with such identity of interest with a debarred person or firm will be placed on the debarred bidders list after the determination is made pursuant to procedures in § 4.12 and parts 6 and 8 of this title. Where a determination of such “substantial interest” is made after the initiation of the debarment period, contracting agencies are to terminate any contract with such firm entered into after the initiation of the original debarment period since all persons or firms in which the debarred person or firm has a substantial interest were also ineligible to receive Government contracts from the date of publication of the violating person’s or firm’s name on the debarred bidders list.

§ 4.189 Administrative proceedings relating to enforcement of labor standards.

The Secretary is authorized pursuant to the provisions of section 4(a) of the
Office of the Secretary of Labor

Act to hold hearings and make decisions based upon findings of fact as are deemed to be necessary to enforce the provisions of the Act. Pursuant to section 4(a) of the Act, the Secretary’s findings of fact after notice and hearing are conclusive upon all agencies of the United States and, if supported by the preponderance of the evidence, conclusive in any court of the United States, without a trial de novo. United States v. Powers Building Maintenance Co., 336 F. Supp. 819 (W.D. Okla. 1972). Rules of practice for administrative proceedings are set forth in parts 6 and 8 of this title.

§ 4.190 Contract cancellation.

(a) As provided in section 3 of the Act, where a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency, whereupon the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

(b) Every contractor shall certify pursuant to § 4.6(n) of subpart A that it is not disqualified for the award of a contract by virtue of its name appearing on the debarred bidders list or because any such currently listed person or firm has a substantial interest in said contractor, as described in § 4.188. Upon discovery of such false certification or determination of substantial interest in a firm performing on a Government contract, the case may be, the contract is similarly subject upon written notice to immediate cancellation by the contracting agency and any additional cost for the completion of the contract charged to the original contractor as specified in paragraph (a). Such contract is without warrant of law and has no force and effect and is void ab initio, 33 Comp Gen. 63; Decision of the Comptroller General, B-115051, August 6, 1953. Furthermore, any profit derived from said illegal contract is forfeited (Paisner v. U.S., 138 Ct. Cl. 420, 150 F. Supp. 885 (1957), cert. denied, 355 U.S. 941).

§ 4.191 Complaints and compliance assistance.

(a) Any employer, employee, labor or trade organization, contracting agency, or other interested person or organization may report to any office of the Wage and Hour Division (or to any office of the Occupational Safety and Health Administration, in instances involving the safety and health provisions), a violation, or apparent violation, of the Act, or of any of the rules or regulations prescribed thereunder. Such offices are also available to assist or provide information to contractors or subcontractors desiring to insure that their practices are in compliance with the Act. Information furnished is treated confidentially. It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of an employee who makes a confidential written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal his identity, will not be disclosed without the prior consent of the employee. Disclosure of employee statements shall be governed by the provisions of the “Freedom of Information Act” (5 U.S.C. 552, see 29 CFR part 70) and the “Privacy Act of 1974” (5 U.S.C. 552a).

(b) A report of breach or violation relating solely to safety and health requirements may be in writing and addressed to the Regional Administrator of an Occupational Safety and Health Administration Regional Office, U.S. Department of Labor, or to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, DC 20210.

(c) Any other report of breach or violation may be in writing and addressed to the Assistant Regional Administrator of a Wage and Hour Division’s regional office, U.S. Department of Labor, or to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210.

(d) In the event that an Assistant Regional Administrator for the Wage and Hour Division, Employment Standards Administration, is notified of a breach or violation which also involves safety
and health standards, the Regional Administrator of the Employment Standards Administration shall notify the appropriate Regional Administrator of the Occupational Safety and Health Administration who shall with respect to the safety and health violation take action commensurate with his responsibilities pertaining to safety and health standards.

(e) Any report should contain the following:

(1) The full name and address of the person or organization reporting the breach or violation.

(2) The full name and address of the person against whom the report is made.

(3) A clear and concise statement of the facts constituting the alleged breach or violation of any of the provisions of the McNamara-O'Hara Service Contract Act, or of any of the rules or regulations prescribed thereunder.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

Sec.
5.1 Purpose and scope.
5.2 Definitions.
5.3-5.4 [Reserved]
5.5 Contract provisions and related matters.
5.6 Enforcement.
5.7 Reports to the Secretary of Labor.
5.8 Liquidated damages under the Contract Work Hours and Safety Standards Act.
5.9 Suspension of funds.
5.10 Restitution, criminal action.
5.11 Disputes concerning payment of wages.
5.12 Debarment proceedings.
5.13 Rulings and interpretations.
5.14 Variations, tolerances, and exemptions from parts 1 and 3 of this subtitle and this part.
5.15 Limitations, variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

5.16 Training plans approved or recognized by the Department of Labor prior to August 20, 1975.

5.17 Withdrawal of approval of a training program.

Subpart B—Interpretation of the Fringe Benefits Provisions of the Davis-Bacon Act

5.20 Scope and significance of this subpart.
5.21 [Reserved]
5.22 Effect of the Davis-Bacon fringe benefits provisions.
5.23 The statutory provisions.
5.24 The basic hourly rate of pay.
5.25 Rate of contribution or cost for fringe benefits.
5.26 "* * * contribution irrevocably made * * * to a trustee or to a third person":
5.27 "* * * fund, plan, or program."
5.28 Unfunded plans.
5.29 Specific fringe benefits.
5.30 Types of wage determinations.
5.31 Meeting wage determination obligations.
5.32 Overtime payments.


SOURCE: 48 FR 19541, Apr. 29, 1983, unless otherwise noted.

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

SOURCE: 48 FR 19540, Apr. 29, 1983, unless otherwise noted.


§ 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 and the Copeland Act in order to coordinate the administration and enforcement of the labor standards provisions of each of the following acts by the Federal agencies responsible for their administration and of such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon the Secretary of Labor under Reorganization Plan No. 14 of 1950: