

options or extensions under such contract.

[48 FR 49762, Oct. 27, 1983, as amended 66 FR 5134, Jan. 18, 2001; 70 FR 50899, Aug. 26, 2005]

**§§ 4.124–4.129 [Reserved]**

PARTICULAR APPLICATION OF CONTRACT  
COVERAGE PRINCIPLES

**§ 4.130 Types of covered service contracts illustrated.**

(a) The types of contracts, the principal purpose of which is to furnish services through the use of service employees, are too numerous and varied to permit an exhaustive listing. The following list is illustrative, however, of the types of services called for by such contracts that have been found to come within the coverage of the Act. Other examples of covered contracts are discussed in other sections of this subpart.

- (1) Aerial spraying.
- (2) Aerial reconnaissance for fire detection.
- (3) Ambulance service.
- (4) Barber and beauty shop services.
- (5) Cafeteria and food service.
- (6) Carpet laying (other than part of construction) and cleaning.
- (7) Cataloging services.
- (8) Chemical testing and analysis.
- (9) Clothing alteration and repair.
- (10) Computer services.
- (11) Concessionaire services.
- (12) Custodial, janitorial, and house-keeping services.
- (13) Data collection, processing, and/or analysis services.
- (14) Drafting and illustrating.
- (15) Electronic equipment maintenance and operation and engineering support services.
- (16) Exploratory drilling (other than part of construction).
- (17) Film processing.
- (18) Fire fighting and protection.
- (19) Fueling services.
- (20) Furniture repair and rehabilitation.
- (21) Geological field surveys and testing.
- (22) Grounds maintenance.
- (23) Guard and watchman security service.
- (24) Inventory services.
- (25) Key punching and keyverifying contracts.

- (26) Laboratory analysis services.
- (27) Landscaping (other than part of construction).
- (28) Laundry and dry cleaning.
- (29) Linen supply services.
- (30) Lodging and/or meals.
- (31) Mail hauling.
- (32) Mailing and addressing services.
- (33) Maintenance and repair of all types of equipment, e.g., aircraft, engines, electrical motors, vehicles, and electronic, telecommunications, office and related business, and construction equipment (See § 4.123(e)).
- (34) Mess attendant services.
- (35) Mortuary services.
- (36) Motor pool operation.
- (37) Nursing home services.
- (38) Operation, maintenance, or logistic support of a Federal facility.
- (39) Packing and crating.
- (40) Parking services.
- (41) Pest control.
- (42) Property management.
- (43) Snow removal.
- (44) Stenographic reporting.
- (45) Support services at military installations.
- (46) Surveying and mapping services (not directly related to construction).
- (47) Taxicab services.
- (48) Telephone and field interview services.
- (49) Tire and tube repairs.
- (50) Transporting property or personnel (except as explained in § 4.118).
- (51) Trash and garbage removal.
- (52) Tree planting and thinning, clearing timber or brush, etc. (See also §§ 4.116(b) and 4.131(f)).
- (53) Vending machine services.
- (54) Visual and graphic arts.
- (55) Warehousing or storage.

**§ 4.131 Furnishing services involving more than use of labor.**

(a) If the principal purpose of a contract is to furnish services in the performance of which service employees will be used, the Act will apply to the contract, in the absence of an exemption, even though the use or furnishing of nonlabor items may be an important element in the furnishing of the services called for by its terms. The Act is concerned with protecting the labor standards of workers engaged in performing such contracts, and is applicable if the statutory coverage test is

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met, regardless of the form in which the contract is drafted. The proportion of the labor cost to the total cost of the contract and the necessity of furnishing or receiving tangible nonlabor items in performing the contract obligations will be considered but are not necessarily determinative. A procurement that requires tangible items to be supplied to the Government or the contractor as a part of the service furnished is covered by the Act so long as the facts show that the contract is chiefly for services, and that the furnishing of tangible items is of secondary importance.

(b) Some examples of covered contracts illustrating these principles may be helpful. One such example is a contract for the maintenance and repair of typewriters. Such a contract may require the contractor to furnish typewriter parts, as the need arises, in performing the contract services. Since this does not change the principal purpose of the contract, which is to furnish the maintenance and repair services through the use of service employees, the contract remains subject to the Act.

(c) Another example of the application of the above principle is a contract for the recurrent supply to a Government agency of freshly laundered items on a rental basis. It is plain from the legislative history that such a contract is typical of those intended to be covered by the Act. S. Rept. 798, 89th Cong., 1st Sess., p. 2; H. Rept. 948, 89th Cong., 1st Sess., p. 2. Although tangible items owned by the contractor are provided on a rental basis for the use of the Government, the service furnished by the contractor in making them available for such use when and where they are needed, through the use of service employees who launder and deliver them, is the principal purpose of the contract.

(d) Similarly, a contract in the form of rental of equipment with operators for the plowing and reseeded of a park area is a service contract. The Act applies to it because its principal purpose is the service of plowing and reseeded, which will be performed by service employees, although as a necessary incident the contractor is required to furnish equipment. For like reasons the

contracts for aerial spraying and aerial reconnaissance listed in §4.130 are covered, even though the use of airplanes, an expensive item of equipment, is essential in performing such services. In general, contracts under which the contractor agrees to provide the Government with vehicles or equipment on a rental basis with drivers or operators for the purpose of furnishing services are covered by the Act. Such contracts are not considered contracts for furnishing equipment within the meaning of the Walsh-Healey Public Contracts Act. On the other hand, contracts under which the contractor provides equipment with operators for the purpose of construction of a public building or public work, such as road resurfacing or dike repair, even where the work is performed under the supervision of Government employees, would be within the exemption in section 7(1) of the Act as contracts for construction subject to the Davis-Bacon Act. (See §4.116.)

(e) Contracts for data collection, surveys, computer services, and the like are within the general coverage of the Act even though the contractor may be required to furnish such tangible items as written reports or computer printouts, since items of this nature are considered to be of secondary importance to the services which it is the principal purpose of the contract to procure.

(f) Contracts under which the contractor receives tangible items from the Government in return for furnishing services (which items are in lieu of or in addition to monetary consideration granted by either party) are covered by the Act where the facts show that the furnishing of such services is the principal purpose of the contracts. For example, property removal or disposal contracts which involve demolition of buildings or other structures are subject to the Act when their principal purpose is dismantling and removal (and no further construction activity at the site is contemplated). However, removal or dismantling contracts whose principal purpose is sales are not covered. So-called "timber sales" contracts generally are not subject to the Act because normally the services provided under such contracts

are incidental to the principal purpose of the contracts. (See also §§ 4.111(a) and 4.116(b).)

**§ 4.132 Services and other items to be furnished under a single contract.**

If the principal purpose of a contract is to furnish services through the use of service employees within the meaning of the Act, the contract to furnish such services is not removed from the Act's coverage merely because, as a matter of convenience in procurement, the service specifications are combined in a single contract document with specifications for the procurement of different or unrelated items. In such case, the Act would apply to service specifications but would not apply to any specifications subject to the Walsh-Healey Act or to the Davis-Bacon Act. With respect to contracts which contain separate specifications for the furnishing of services and construction activity, see § 4.116(c).

**§ 4.133 Beneficiary of contract services.**

(a) The Act does not say to whom the services under a covered contract must be furnished. So far as its language is concerned, it is enough if the contract is "entered into" by and with the Government and if its principal purpose is "to furnish services in the United States through the use of service employees". It is clear that Congress intended to cover at least contracts for services of direct benefit to the Government, its property, or its civilian or military personnel for whose needs it is necessary or desirable for the Government to make provision for such services. For example, the legislative history makes specific reference to such contracts as those for furnishing food service and laundry and dry cleaning service for personnel at military installations. Furthermore, there is no limitation in the Act regarding the beneficiary of the services, nor is there any indication that only contracts for services of direct benefit to the Government, as distinguished from the general public, are subject to the Act. Therefore, where the principal purpose of the Government contract is to provide services through the use of service employees, the contract is covered by

the Act, regardless of the direct beneficiary of the services or the source of the funds from which the contractor is paid for the service, and irrespective of whether the contractor performs the work in its own establishment, on a Government installation, or elsewhere. The fact that the contract requires or permits the contractor to provide the services directly to individual personnel as a concessionaire, rather than through the contracting agency, does not negate coverage by the Act.

(b) The Department of Labor, pursuant to section 4(b) of the Act, exempts from the provisions of the Act certain kinds of concession contracts providing services to the general public, as provided herein. Specifically, concession contracts (such as those entered into by the National Park Service) principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public, as distinguished from the United States Government or its personnel, are exempt. This exemption is necessary and proper in the public interest and is in accord with the remedial purpose of the Act. Where concession contracts, however, include substantial requirements for services other than those stated, those services are not exempt. The exemption provided does not affect a concession contractor's obligation to comply with the labor standards provisions of any other statutes such as the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*), the Davis-Bacon Act (40 U.S.C. 276a *et seq.*; see part 5 of this title) and the Fair Labor Standards Act (29 U.S.C. 201 *et seq.*).

**§ 4.134 Contracts outside the Act's coverage.**

(a) Contracts entered into by agencies other than those of the Federal Government or the District of Columbia as described in §§ 4.107-4.108 are not within the purview of the Act. Thus, the Act does not cover service contracts entered into with any agencies of Puerto Rico, the Virgin Islands, American Samoa, or Guam acting in behalf of their respective local governments. Similarly, it does not cover