rate prescribed in paragraph (a) of this section.

(c) Where it is determined pursuant to §4.51(b) that a single fringe benefit rate is paid with respect to a majority of the workers in a class of service employees engaged in similar work in a locality, that rate will be determined to prevail notwithstanding the rate which would otherwise be prescribed pursuant to this section. Ordinarily, it will be found that a majority of workers receive fringe benefits at a single level where those workers are subject to a collective bargaining agreement whose provisions have been found to prevail in the locality.

(d) A significant number of contracts contain a prevailing fringe benefit rate of $2.56 per hour. Generally, these contracts are large base support contracts, contracts requiring competition from large corporations, contracts requiring highly technical services, and contracts solicited pursuant to A–76 procedures (displacement of Federal employees), as well as successor contracts thereto. The $2.56 benefit rate shall continue to be issued for all contracts containing the $2.56 benefit rate, as well as resolicitations and other successor contracts for substantially the same services, until the fringe benefit rate determined in accordance with paragraphs (a) and (b) of this section equals or exceeds $2.56 per hour.

(e) *Variance procedure.* (1) The Department will consider variations requested by contracting agencies pursuant to Section 4(b) of the Act and §4.123, from the methodology described in paragraph (a) of this section for determining prevailing fringe benefit rates. This variation procedure will not be utilized to routinely permit separate fringe benefit packages for classes of employees and industries, but rather will be limited to the narrow circumstances set forth herein where special needs of contracting agencies require this procedure. Such variations will be considered where the agency demonstrates that because of the special circumstances of the particular industry, the variation is necessary and proper in the public interest or to avoid the serious impairment of government business. Such a demonstration might be made, for example, where an agency is unable to obtain contractors willing to bid on a contract because the service will be performed at the contractor's facility by employees performing work for the Government and other customers, and as a result, paying the required SCA fringe benefits would cause undue disruption to the contractor's own work force and pay practices.

(2) It will also be necessary for the agency to demonstrate that a variance is in accordance with the remedial purpose of the Act to protect prevailing labor standards, by providing comprehensive data from a valid survey demonstrating the prevailing fringe benefits for the specific industry. If the agency does not continue to provide current data in subsequent years, the variance will be withdrawn and the rate prescribed in paragraph (a) of this section will be issued for the contract.

[61 FR 68664, Dec. 30, 1996]

§4.53 Collective bargaining agreement (successorship) determinations.

Determinations based on the collective bargaining agreement of a predecessor contractor set forth by job classification each provision relating to wages (such as the established straight time hourly or salary rate, cost-of-living allowance, and any shift, hazardous, and other similar pay differentials) and to fringe benefits (such as holiday pay, vacation pay, sick leave pay, life, accidental death, disability, medical, and dental insurance plans, retirement or pension plans, severance pay, supplemental unemployment benefits, saving and thrift plans, stock-option plans, funeral leave, jury/witness leave, or military leave) contained in the predecessor's collective bargaining agreement, as well as conditions governing the payment of such wages and fringe benefits. Accrued wages and fringe benefits and prospective increases therein are also included. Each wage determination is limited in application to a specific contract succeeding a contract which had been performed in the same locality by a contractor with a collective bargaining agreement, and

contains a notice to prospective bidders regarding their obligations under section 4(c) of the Act.

[48 FR 49762, Oct. 27, 1983. Redesignated at 61 FR 68664, Dec. 30, 1996]

§4.54 Locality basis of wage and fringe benefit determinations.

(a) Under section 2(a) of the Act, the Secretary or his authorized representative is given the authority to determine the minimum monetary wages and fringe benefits prevailing for various classes of service employees ''in the locality''. Although the term *locality* has reference to a geographic area, it has an elastic and variable meaning and contemplates consideration of the existing wage structures which are pertinent to the employment of particular classes of service employees on the varied kinds of service contracts. Because wage structures are extremely varied, there can be no precise single formula which would define the geographic limits of a ''locality'' that would be relevant or appropriate for the determination of prevailing wage rates and prevailing fringe benefits in all situations under the Act. The locality within which a wage or fringe benefit determination is applicable is, therefore, defined in each such determination upon the basis of all the facts and circumstances pertaining to that determination. Locality is ordinarily limited geographically to a particular county or cluster of counties comprising a metropolitan area. For example, a survey by the Bureau of Labor Statistics of the Baltimore, Maryland Standard Metropolitan Statistical Area includes the counties of Baltimore, Harford, Howard, Anne Arundel, and the City of Baltimore. A wage determination based on such information would define locality as the same geographic area included within the scope of the survey. Locality may also be defined as, for example, a city, a State, or, under rare circumstances, a region, depending on the actual place or places of contract performance, the geographical scope of the data on which the determination was based, the nature of the services being contracted for, and the procurement method used. In addition, in *Southern Packaging & Storage Co.* v. *United States,* 618 F.2d 1088 (4th Cir. 1980), the court held that a nationwide wage determination normally is not permissible under the Act, but postulated that ''there may be the rare and unforeseen service contract which might be performed at locations throughout the country and which would generate truly nationwide competition''.

(b) Where the services are to be performed for a Federal agency at the site of the successful bidder, in contrast to services to be performed at a specific Federal facility or installation, or in the locality of such installation, the location where the work will be performed often cannot be ascertained at the time of bid advertisement or solicitation. In such instances, wage determinations will generally be issued for the various localities identified by the agency as set forth in §4.4(a)(3)(i).

(c) Where the wage rates and fringe benefits contained in a collective bargaining agreement applicable to the predecessor contract are set forth in a determination, locality in such a determination is typically described as the geographic area in which the predecessor contract was performed. The determination applies to any successor contractor which performs the contract in the same locality. However, see §4.163(i).

[48 FR 49762, Oct. 27, 1983. Redesignated at 61 FR 68664, Dec. 30, 1996, and amended at 70 FR 50898, Aug. 26, 2005]

§4.55 Issuance and revision of wage determinations.

(a) Determinations will be reviewed periodically and where prevailing wage rates or fringe benefits have changed, such changes will be reflected in revised determinations. For example, in a locality where it is determined that the wage rate which prevails for a particular class of service employees is the rate specified in a collective bargaining agreement(s) applicable in that locality, and such agreement(s) specifies increases in such rates to be effective on specific dates, the determinations would be revised to reflect such changes as they become effective. Revised determinations shall be applicable to contracts in accordance with the provisions of §4.5(a) of subpart A.