

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210



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MEMORANDUM NO. 138

TO: ALL CONTRACTING AGENCIES OF THE FEDERAL
GOVERNMENT AND THE DISTRICT OF COLUMBIA

FROM: WILLIAM M. OTTER *William M. Otter*
Administrator

SUBJECT: Revision of the Service Contract Act (SCA)
Regulations, 29 CFR Part 4 -
Reference: All Agency Memoranda Nos. 136
(November 18, 1983) and 137 (December 20, 1983)

On January 27, 1984, the U.S. District Court for the District of Columbia issued a ruling upholding the Department's revised SCA regulations which had been challenged in American Federation of Labor and Congress of Industrial Organizations, et al. v. Raymond J. Donovan, et al., Civil Action No. 83-3608. These regulations, which were published in the Federal Register on October 27, 1983 (48 FR 49736) with an originally scheduled effective date of December 27, were deferred until January 27, 1984, in order to facilitate a prompt resolution of the litigation (see 48 FR 56577; December 22, 1983).

Accordingly, implementation of the instructions contained in All Agency Memorandum No. 136, dated November 18, 1983, should begin as soon as is administratively feasible. Because existing contracts contain SCA provisions and wage determinations issued according to the regulations and policies in existence when the contracts were awarded, the substantive changes affecting such matters are prospective only. Therefore, the new contract clauses set forth in revised 29 CFR 4.6, as published in the Federal Register on October 27, 1983, should be included in all contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after January 27, 1984. In addition, for the reasons stated above, the revisions to the following sections are also applicable only to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after January 27, 1984: sections 4.1b, 4.4, and 4.5 of Subpart A; sections 4.116, 4.117, 4.123 (e), 4.132, and 4.133 of Subpart C; and sections 4.163(g), 4.163(i), and 4.168(b) of Subpart D. None of the revisions

to the specific sections noted above are applicable to any contract entered into prior to January 27, 1984. The remaining portions of the regulations, which do not affect contractual provisions, are effective as of January 27, 1984.

It is essential to the Administration's regulatory reform effort that these revised SCA regulations be implemented as soon as possible. It is, therefore, expected that every contracting agency will take immediate action to prepare and disseminate to its procurement offices the necessary changes required in its contract documents and procurement regulations in accordance with the instructions provided herein and in Memorandum No. 136. Your cooperation is appreciated.