

May 13, 1981

Dear Name*:

This is in reply to your letter of March 6, 1981, addressed to Deputy Administrator Henry T. White, Jr., regarding your firm's obligations under the Service Contract Act and Wage Determination No. 80-1037 for furnishing health and welfare fringe benefits to handicapped employees performing stamp bursting and packaging services on a U.S. Postal Service contract.

As you are aware, pursuant to sections 4.6 (n) (1) (i) and 4.6 (n) (1) (ii) of Regulations, 29 CFR Part 4, copy enclosed, persons whose earnings capacity has been impaired by age, physical or mental deficiency, or injury may be employed at wage rates lower than the prevailing wage rates otherwise required by an applicable SCA wage determination provided the employer has secured the appropriate certification. However, the regulations explicitly state that under such circumstances there shall be no reduction in any fringe benefits (or cash equivalent payment made in lieu thereof) provided for the employees in the applicable wage determination. This position originally was adopted by the Labor Department because it was felt that each and every service employee who performs work on a Government service contract is entitled to all of the fringe benefits listed on the wage determination for that class of service employee notwithstanding whether the employee is handicapped or not.

Thus, with respect to the health and welfare fringe benefit requirement of Wage Determination No. 80-1037, which call for an employer contribution of \$0.32 per hour, any service employee, including any handicapped service employee, covered by the wage determination must receive either the full health and welfare benefit specified in the determination or, as an alternative, any combination of equivalent bona fide benefits and/or cash equivalent payments furnished under the rules and regulations set forth in Subpart B of Regulations, 29 CFR Part 4. For your information, no benefit required by another Federal, State, or local law, such as unemployment compensation, workers' compensation, or social security, may be credited towards meeting the fringe benefit requirements of an applicable SCA wage determination. (See section 4.170 (b) of the Regulations.) Vacation and sick leave benefits, however, are

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deemed to be bona fide benefits for purposes of the SCA and such benefits may be substituted for the health and welfare benefits listed on the wage determination provided the substituted vacation and sick leave benefits are equivalent in terms of monetary cost to the employer (see Subpart B of the Regulations). Of course, no fringe benefit can be counted twice and if a particular wage determination also requires the payment of vacation or sick leave benefits, only those vacation or sick leave payments in excess of that required by the wage determination may be credited toward satisfying the other fringe benefit requirements of the wage determination.

It is our understanding that the pricing of covered SCA contracts awarded in accordance with the provisions of the Wagner-O 'Day Act, such as the contract at issue, is the responsibility of the Committee on Purchases from the Blind and Other Severely Handicapped. In this regard, the Committee, in determining the contract price a particular sheltered workshop will receive for performing services under an SCA contract, allows for the full cost of furnishing the required health and welfare benefits. Accordingly, in the event your firm failed to include the full cost of furnishing such health and welfare benefits (or their equivalent, as discussed above) in the costing data you supplied to the Committee, you may be able to receive an adjustment in your contract price in order to cover the health and welfare costs. Mrs. Connie Phillips of the National Industries for the Severely Handicapped, North Central Office, 144 E. Touhy Avenue, DesPlaines, Illinois 60018 (Telephone: (312) 298-5690), has advised us that she would be willing to assist your firm in applying for such a contract price adjustment.

Sincerely,

Dorothy P. Come
Assistant Administrator

Key Words:	SCA Fringe Benefits Payments Credited as SCA Fringe Benefits
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