

U.S. CUSTOMS AND BORDER PROTECTION

CBP DIRECTIVE NO. 3270-007A

DATE: May 6, 2012

ORIGINATING OFFICE: OFO:CCS

SUPERSEDES: CD 3270-007; 8/17/93

REVIEW DATE: May 2015

SUBJECT: Centralized Examination Stations

1. **PURPOSE.** This directive establishes Office of Field Operations (OFO) policy relative to the selection, operation, and termination of Centralized Examination Stations (CES).
2. **POLICY.** It is the policy of Customs and Border Protection (CBP) that a CES be utilized to the fullest extent possible in order to maintain control and accountability of merchandise imported into the United States.
3. **AUTHORITY/REFERENCES.** 6 USC 966; 19 USC 66, 1461, 1467, 1499, 1623, and 1624; 41 USC 351, *et seq.*; 19 CFR 113.63, 118, 142, 151.6, 151.7, 151.15, 163, 178.2; FAR 52.222-41; Acquisition of Free Space for Customs Use, CD 5270-005A, December 16, 1999.
4. **RESPONSIBILITIES.** The Assistant Commissioner, (AC) Office of Field Operations (OFO); Executive Director, Cargo and Conveyance Security; Directors, Field Operations (DFOs); Assistant Directors, Field Operations (ADFOs); and port directors will ensure that these procedures are followed.
5. **PROCEDURES.**
 - 5.1 Solicitation of a CES
 - 5.1.1 Pursuant to 19 CFR 118.2, when a port director makes a preliminary determination that a CES should be established, or when the term of an existing CES is about to expire and the port director believes the need for a CES still exists, the port director will announce by written notice posted at the port office and by any other written methods the port director may consider appropriate, such as normal port information channels, trade bulletins, or local newspaper, that applications to operate a CES are being accepted. To the extent that the solicitation is in response to the expiration of an existing CES agreement, the port director will notify the current CES operator that it must re-apply in order to be considered, regardless of whether the criteria for the CES has changed. *See* 19 CFR 118.3.
 - 5.1.2 The written notice will include the general criteria listed in 19 CFR 118.11, in addition to any local criteria that applicants must meet, and will invite the public to submit any relevant written comments as to whether a CES should be established or whether there is still a need for a CES. *See* 19 CFR 118.2. Port directors shall establish and justify, where necessary, local criteria and minimum standards for the CES prior to the announcement. The port director may include any particular type of equipment in the solicitation, provided that such equipment is

reasonably related to making the merchandise available to CBP Officers (CBPOs) for physical examination, facilitating the opening, presentation for inspection, and closing of all types of cargo designated for examination by CBP; and providing office space, parking spaces, appropriate sanitary facilities and potable water to CBPOs, as set forth in 19 CFR Part 118.

5.1.3 Before announcing via written notice that the port will be accepting CES applications, port directors should consult with their Assistant Director, Mission Support (ADMS), to establish CBP minimum space and equipment requirements for facilitating Field Office and Customs-Trade Partnership Against Terrorism (C-TPAT) cargo examinations.

5.1.4 The Budget Reconciliation Act of 1987 prohibits CBP from establishing any new CES facilities unless advance written notice is provided to the appropriate Committees in Congress at least 90 days prior to the proposed establishment. *See* Pub. L. No. 100-203 § 9501(c)(2)(A). To comply, the port director will request that the DFO notify the AC, OFO, whenever the port proposes to establish a new CES so that Congressional notification can be initiated.

5.1.5 In accordance with 19 CFR 118.2, applications will be accepted only in response to the port notice and must be received within 60 calendar days from the date of the notice. Public comments must be received within 30 calendar days from the date of the notice.

5.2 CES Selection

5.2.1 The port director may establish a team comprised of CBP personnel to evaluate the CES applications and provide the port director with a clear assessment of each application. If such a team is established, it should consist of at least three members, each of whom has CES experience. The evaluation team should include at least one individual from outside the port to maintain objectivity and one individual from the port to assess the local criteria requirements.

5.2.2 After the announcement period has closed and all application have been submitted in accordance with 19 CFR 118.2 and 118.11, the port director will process CES applications in accordance with 19 CFR 118.12 and the criteria set forth in Attachment A, hereto. The port shall review the application packages for completeness and ensure that all requirements are addressed. Applications that do not address the minimum standards and local criteria required by the solicitation will not be considered. In conducting its evaluation, the port will consider the public comments submitted during the announcement period in conjunction with the completeness of the applications.

5.2.3 The port shall evaluate the applications using the rating sheet and criteria. *See* Attachment A. The template rating sheet should be revised to reflect any minimum standards and local criteria that were included in the solicitation so that they are adequately considered during the evaluation process. Ports will need to verify the proposed location of the facility and ensure its availability for CES operations.

5.2.4 Once an applicant is tentatively selected, the port director will notify the selectee, as well as those applicants not selected, in accordance with 19 CFR 118.13.

5.3 Written Agreement between CES Operators and CBP.

5.3.1 In accordance with 19 CFR 118.3, the applicant tentatively selected to operate a CES must enter into a written agreement with CBP before commencing operations. The terms and conditions of the agreement are set forth in Attachment A, hereto. Failure to execute a written agreement with CBP in a timely manner will result in the revocation of that applicant's tentative selection and may result in the tentative selection of another applicant or republication of the notice soliciting applications.

5.3.2 All written agreements must comply with the terms and conditions set forth in 19 CFR 118.3.

5.3.3 The written agreement should not be executed until the port director receives the wage determinations for attachment. *See* FAR 52.222-41.

5.3.4 Prior to execution, all written agreements should be reviewed by the Office of the Associate Chief Counsel or Assistant Chief Counsel servicing the port.

5.4 Responsibilities.

5.4.1 By signing an agreement with CBP and commencing operations of a CES, an operator agrees to comply with the terms and conditions set forth in 19 CFR 118.4, including any reasonable requirements imposed by the port director pursuant to 19 CFR 118.4(k).

5.4.2 With respect to providing service on a "first-come, first served" basis, as proscribed by 19 CFR 118.4(b), CES Operators shall grant Front of the Line (FOL) privileges to Customs-Trade Partnership Against Terrorism (C-TPAT) members for the examination of cargo consistent with 6 USC 966(c)(3) except where granting such privileges may result in damage to other merchandise, such as perishable goods, waiting for CBP examination. It is the port's responsibility to notify the CES operator that a C-TPAT member has been directed to the CES.

5.4.3 Any change to the CES location as identified in the written agreement will void the CES agreement. If the CES operator voids the CES agreement, the CES operator will work with the port director to establish a mutually agreeable date for the discontinuance of operations and notify importers. It is the CES operator's responsibility to ensure that merchandise already at the CES is properly consigned to another location for inspection, as directed by the importer and approved by the port director, or as otherwise directed by CBP. The port director may direct the CES operator to transfer, under bond, all remaining goods to another CES, bonded warehouse or other suitable location without expense to the Government. In such instances, the CES operator remains responsible for keeping safe any merchandise in its custody, including repacking and transferring such merchandise to a location approved by the port director. *See* 19 CFR 113.63(b)(2) and (c)(3); 19 CFR 118.4(g). *See also*, 19 CFR 118.23(c). Upon receiving notice that the CES operator intends to relocate its CES operation to a location other than as identified

in the agreement, the port director may immediately begin soliciting for a new CES pursuant to 19 CFR 118.2 to ensure the continuity of operations within the port.

5.4.4 The CES operator must maintain a Customs custodial bond (CBPF 301) in an amount set by the port director pursuant to 19 CFR 118.4(g) and comply with the terms and conditions of the custodial bond, pursuant to 19 CFR 113.63. The CES operator will accept and keep safe all merchandise delivered to the CES for examination. The bond will include liability for transporting merchandise to the CES from within the district boundaries (*see* the definition of “district” at 19 CFR 112.1). Such liability is assumed by the CES operator when it picks up merchandise for transportation to his facility. The operator also agrees to increase the amount of the bond if deemed appropriate by the port director.

5.4.5 The CES operator is responsible for complying with the McNamara-O’Hara Service Contract Act, 41 U.S.C. § 351, et. seq., where applicable, and the Federal Acquisition Regulations (FAR) found at FAR 52.222-1 and 52.222-41 through 52.222-43.

5.4.6 It is the responsibility of the CES operator to comply with the requirements set forth in Executive Order 12989 dated February 13, 1996, as amended by Executive Order 13465 dated June 6, 2008, and particularly Sections 1(a)-(c), pertaining to the unlawful employment of aliens and anti-discrimination requirements of the Immigration and Nationality Act and of any other applicable law. 61 Fed. Reg. 6091; 73 Fed. Reg. 33285. These requirements apply to all persons working, assigned, and/or detailed to the CES facility, including all casual and/or temporary labor utilized by the CES operator.

5.4.7 The CES operator and port director will comply with the terms of 19 CFR 118.5 in both proposing and evaluating any changes to the service fees schedule referred to in 19 CFR 118.4(c).

5.5 Temporary Suspension, Revocation of Selection, and Cancellation Procedures

5.5.1 The port director may immediately suspend, for a temporary period of time or until revocation and cancellation proceedings are concluded pursuant to 19 CFR § 118.23, a CES operator’s or entity’s selection and the written agreement to operate a CES in those situations identified in 19 CFR 118.21(a).

5.5.2 The port director may propose to revoke the selection of a CES operator and cancel the agreement to operate a CES in those situations identified in 19 CFR 118.21(b).

5.5.3 Any change in the employment status of a corporate officer (for example, discharge, resignation, demotion, or promotion) prior to indictment or conviction or after committing any acts which would constitute the culpable behavior described in 19 CFR 118.21(a) may be taken into account by the port director as set forth in 19 CFR 118.21(c).

5.6 The port director will provide notice of an immediate suspension or proposed revocation and cancellation action in accordance with 19 CFR 118.22 and will inform the operator of the appeal rights and procedures under 19 CFR 118.23.

5.7 The movement of merchandise to a CES, including the permission to transfer merchandise for examination, assumption of liability during transfer, annual blanket transfer, and designation of bonded movement and CES to be used, will be conducted in accordance with 19 CFR 151.15.

5.8 If at any time prior to the expiration of the three to five year period specified in the written agreement, the CES operator discontinues operations, the CES operator will work with the port director to establish a mutually agreeable date for the discontinuance of operations and notify importers. It is the responsibility of the CES operator to ensure that merchandise at the CES is properly consigned to another location for inspection as directed by the importer and approved by the port director, or as otherwise directed by CBP. The port director may direct the CES operator to transfer, under bond, all remaining goods to another CES, bonded warehouse, or other suitable location without expense to the Government. In such instances, the CES operator remains responsible for keeping safe any merchandise in its custody, including repacking and transferring such merchandise to a location approved by the port director. See 19 CFR 113.63(b)(2) and (c)(3); 19 CFR 118.4(g). See also, 19 CFR 118.23(c). The port director may also request submissions from the public for the establishment of a new CES pursuant to the provisions of 19 CFR 118.2.

5.9 Questions or comments regarding this directive may be forwarded to Cargo Control at OFOcargocontrol@cbp.dhs.gov.

6. MEASUREMENT

DFOs and port directors should continue to monitor the status of cargo in their port in order to determine the need for establishing a CES and in order to facilitate the movement of cargo.

7. NO PRIVATE RIGHT CREATED

This directive is an internal government document and does not explicitly or impliedly create, confer, grant or authorize any rights, privileges, benefits or obligations, substantive or procedural, enforceable at law or otherwise on any party or person against the United States, or its officers, employees agents or other associated personnel thereof and is not intended nor should be construed as creating any such right, privilege, benefit or obligation.



Assistant Commissioner
Office of Field Operations

- Attachment A: CES Operating Agreement
- Attachment B: CES Application Rating System
- Attachment C: Federal Acquisition Regulations (FAR)
- Attachment D: U.S. Department of Labor – The McNamara-O’Hara Service Contract Act

ATTACHMENT A

CENTRALIZED EXAMINATION STATION
OPERATING AGREEMENT

1. This document, in conjunction with relevant law and regulations, establishes the requirements, terms and conditions, for the operation of a Centralized Examination Station (CES). **(NAME OF FIRM)**, (CES Operator) has been selected as a CES within the Port of **(CBP)**. The physical location of this CES, known as **(NAME OF CES)**, will be at **(1234 MAIN STREET, SOMEWHERE USA)**.
2. The **(NAME OF CES)** CES will commence full operations on **(THIS DATE)**. The CES will be open **(WHEN-WHEN)** between the hours of **(Hours/Minutes and Hours/Minutes)**. These days and hours may change in the future, depending upon the needs of Customs and Border Protection and the local trade community.
3. This agreement shall be effective for **(three to five)** years from the date of the commenced operations cited in paragraph 2 above. This agreement cannot be transferred, sold, inherited, or conveyed in any manner.
4. This agreement may be immediately suspended by the Port Director if it is determined a violation of 19 CFR 118.21(a) has occurred. A proposed revocation and cancellation may be issued by the Port Director for violations of 118.21(b).
5. The designation of a CES carries the following specific responsibilities, which the undersigned CES Operator understands and agrees to:
 - a. The facility designated as the CES must meet and maintain the security standards for a container station as outlined in TD 72-56 and the CES facility requirements as outlined in the approved application;
 - b. The CES Operator, at his/her own expense, agrees to maintain adequate liability insurance with respect to the property within his/her control, and with respect to persons having access to the CES;
 - c. The CES Operator affirms that he/she currently holds and will maintain a custodial activity bond (**# BOND NUMBER**) in the amount of **(\$ AMOUNT)** and agrees to its application as a performance bond to the CES program. The CES Operator also agrees to increase the amount of this bond if deemed necessary by the Port Director;
 - d. The CES Operator understands that the CES may only be operated at the location identified at paragraph 1. If the CES is moved to a different location, CBP's permission to operate the CES is automatically revoked. In such instances, the CES Operator understands that it must provide for the orderly winding down of

operations and disposition of merchandise as indicated in paragraph 6, below, and as required under its custodial bond, CF 301, pursuant to 19 CFR 113.63.

- e. The CES Operator agrees to provide adequate personnel and equipment to ensure reliable service for the opening, presentation for inspection, and closing of all types of cargo designated for examination by CBP on an equitable “first-come first-served” basis to all parties whose cargo has been designated by CBP for examination. The type of equipment furnished will be clean, sound, and of sufficient quantity and/or capacity, to fulfill the requirements of this agreement. The CES Operator will provide any necessary accessory equipment, including but not limited to forklifts, hand tools for opening and closing crates, and yard tractors for backing in containers. The CES Operator will provide any other equipment required by the Port Director in the solicitation. With respect to providing service on a “first-come, first served” basis, CES Operators shall grant Front of the Line (FOL) privileges to Customs-Trade Partnership Against Terrorism (C-TPAT) partners for the examination of cargo. CES Operators shall not grant FOL privileges to C-TPAT partners where doing so may result in damage to other merchandise, such as perishable goods, waiting for CBP examination;
- f. The CES Operator will keep current, the list of employee names, dates of birth, and social security numbers (voluntary), of the managing officers, and employees coming in contact with or handling imported merchandise that has not yet been released by CBP. The CES Operator will also provide, if requested, the fingerprints of all employees involved in the CES operation. Any changes in employee status must also be provided to the Port Director in writing within 10 calendar days of the change;
- g. The CES Operator will assume responsibility for any and all damage or injury to persons or property resulting from the use or operation of vehicles or other equipment by employees or agents of said provider in the performance of this agreement;
- h. CBP is not responsible for the payment of any charges or expenses incurred by the CES Operator, or any importer, or his agent, or other user of the CES in connection with this agreement. The CES Operator will bill the user directly for service rendered at the established rates;
- i. The CES Operator will assess service fees according to the fee schedule included in the CES Operators approved application or as changed under the provisions of 19 CFR 118.5. The CES Operator must provide 90 calendar days written notice to the Port Director of any proposed fee schedule changes which will include written justification for any increased or additional fee. Fee changes deemed to be excessive may result in a denial. A CES Operator will remain bound by the

existing fee schedule and shall not implement any fee schedule change prior to receipt of written approval of the change from the Port Director;

- j. The CES Operator agrees that he/she is liable for the removal of any merchandise attributable to theft, inadvertence, unusual circumstances, or any other reasons, if delivery is not authorized by CBP;
- k. The CES Operator agrees that all records connected with the operation of this facility and the CES program will be maintained and made available upon demand by CBP, for a period of not less than 5 years from the date of the transaction or examination conducted pursuant to this agreement;
- l. The CES Operator agrees to provide office space, parking space, appropriate sanitary facilities and potable drinking water for the CBP employees assigned to the CES in accordance with Customs Directive 5370-005A, Acquisition of Free Space for Customs Use;
- m. The CES Operator agrees to provide and maintain any and all services, facilities, and equipment as contained in the approved application;
- n. The CES Operator understands that CBP is not responsible for any actions taken by the CES Operator or his employees that are not in accordance with CBP Directives, and applicable laws and regulations;
- o. The CES Operator shall hold and save the United States, its officers, agents and servants and employees, harmless from liability of any nature or kind, including costs or expenses from, or on the account of, any and all suits or damages of any character whatsoever relating from injuries to any person or persons and loss or damage to any property, by virtue of performance of this agreement by the provider of equipment, services, employees or agents of said provider;
- p. The CES Operator will perform in accordance with any other reasonable requirements imposed by the Port Director in the CES solicitation;
- q. The CES Operator will comply fully with the McNamara-O'Hara Service Contract Act, 41 U.S.C. § 351, *et seq*, applicable regulations promulgated by the Department of Labor, and the Federal Acquisition Regulations (FAR) found at FAR 52.222-1, 52.222-41 through 52.222-43, which are attached hereto and incorporated by reference herein. For purposes of this agreement, the term "Contractor" as used in the Service Contract Act and FAR will refer to the CES Operator party to this agreement; "contract" will refer to this specific CES agreement; and "Contracting Officer" will refer to the Port Director of the area port for which the CES will operate; and

- r. The CES Operator also agrees to comply with the requirements of Executive Order 12989 dated February 13, 1996, particularly with Sections 1(a) and (b), which pertain to the unlawful employment of aliens and anti-discrimination requirements of the Immigration and Nationality Act and of any other applicable law. These requirements apply to all persons working, assigned, and/or detailed to the CES facility, including all casual and/or temporary labor utilized by the CES Operator.

6. If at any time within the (**three to five**) year period, the CES Operator discontinues operations, then the CES Operator agrees to cooperate with importers and the Port Director to ensure the timely and orderly disposition of merchandise. In addition, the CES Operator agrees that it remains liable for any merchandise at the CES facility. In instances where directed by the Port Director, the CES Operator further agrees to transfer, under bond, all remaining goods to another CES without expense to the Government.

7. The Parties have attached the prevailing wage rates in accordance with FAR 52.222 which are attached hereto and incorporated by reference herein.

CES Operator

Port Director

DATE

ATTACHMENT B

CENTRALIZED EXAMINATION STATION APPLICATION RATING SYSTEM

The rating of an application to operate a CES will be based on several factors with the final selection being made by the port director. The port director may elect to appoint a CES committee composed of CBP personnel to assess the applicant pool and recommend the best choices for the final selection. Whichever option the port director chooses to exercise, the following guidelines should be employed. The review should include an assessment of the information in the application package, a site survey and the consideration of public comments received (*see* 19 CFR 118.2 and 118.12.)

A rating sheet should be developed for each criteria used for selection. These guidelines should be established prior to applicant review to determine rating points, and what constitutes superior, good, adequate, or inadequate factors. The best overall packages based on the criteria described in 19 CFR 118.11 should be considered in the final decision process.

Once a CES has been selected, the criteria rating packages for all applicants should be retained by the port with any other materials utilized in the CES selection process. These packages will provide the basis for declination notifications required for non-selected applicants. These packages will also provide the documentation necessary to establish credibility of the selection process in the case of a CBP review of inquiry by an outside party.

Some of the CES applicants may already be container station operators with facilities in tact; others will apply with only an option on a lease for a facility. Ports will need to review all proposed facilities to ensure that if selected, the applicant will operate from the designated site.

A sample of the criteria along with examples of potential superior, good, adequate, and inadequate factors are provided below. A point rating scale should be established for example, from 0-5 with 5 being superior, 3-4 being good, 1-2 being adequate and 0 being inadequate. The number of factor multiplied by a potential score of 5 will give you the maximum possible score for each category. For example, in rating equipment, if there are 6 factors to be rated in this category, times a potential score of 5 points each, the best possible score for any applicant would be 6 x 5 or 30. All categories should be calculated to determine the best overall score possible.

The following examples should serve as a general guideline, not as sole criteria, for judging an applicant. Ports may need to refine this list with additional criteria they consider essential to the selection process based on specific port conditions. The standards used in reviewing both the application and site are:

1. Facility

The facility should be rated on the ability of the operator to meet CBP design and configuration and physical security requirements; rapidly devan the cargos, make the cargo easily accessible for CBP examination, and reload containerized cargo. The factors to evaluate include:

○ Accessibility

Is the facility situated so that trucks with 40-45 foot containers can easily reach the facility from the place of discharge? Will the existing traffic pattern cause a significant delay in the delivery time of the cargo? Is there sufficient room to maneuver containers into position at all bay doors? A facility lacking sufficient room to back a container straight in would be a safety hazard for CBP personnel who routinely inspect containers as part of their examinations and would receive a rating of inadequate

(scale 0-5)

○ Bay Doors

Is there a sufficient number given the examination load for the port? A facility should be rated on the number of bay doors rather than merely dock space where a container can be positioned. Growth capability is one feature of a superior facility

(scale 0-5)

○ Floor Space

Is there enough room to spread cargo so that CBPOs and canine teams can examine the cargo? A facility with sufficient space adjacent to the bay doors so that cargo from a number of containers can be examined quickly and simultaneously is a feature of a superior facility.

(scale 0-5)

- Office Space

Is there enough office space, lavatories, safe drinking water, and parking for both personal and government vehicles for the CBPO needed to staff the CES? Do the provisions meet the requirements outlined in the Acquisition of Free Space for Customs Use directive (5270-005A)? Is this space located in an accessible area to the examination area?

(scale 0-5)

- Security Features

Will cargo under CBP custody be secure? Does the facility have the security features outlined in the CBP Physical Security Handbook T.D. 72-56, such as locking bay doors, dead bolt access doors, adequate fencing around container yards, CCTV, access control, statutory signage, etc?

(scale 0-5)

- Container Storage

Is there sufficient space in a secure container yard to store containers? A total of two container parking spaces of storage per bay door would earn an adequate rating.

(scale 0-5)

Short Term Storage

Is there room to securely store detained or seized cargo awaiting pick-up by the seizure custodian?

(scale 0-5)

Total Facility Rating

(scale 0-35)

2. Fee Structure

The fee structure should be detailed enough to show the fees for the various levels of devanning (i.e., full, partial, etc.) and also include a listing of all possible charges that an importer may have to pay for all available services. Subject to any special costs incurred for CBP required facility modifications to meet specific cargo handling, storage and examination, requirements, or security standards, the principle of fee comparability should be applied and should be obtained by measuring fees out-lined in the application, with those currently charged for similar services in the area to be served by the CES.

The rating should be based upon these figures with superior being comparable or more reasonable than the comparable average, good being truly comparable, acceptable being slightly over the comparables, and unacceptable being significantly higher than the comparables. It should be noted that the lowest fee schedule may not always be the most reasonable if it is too low to maintain a profit or hire enough labor. This is one reason fee comparability is so important. The breakdown should show the costs for the following:

- Full devanning, partial devanning, minimum charge for minimal container examination.
(scale 0-5)
 - Opening charges per container.
(scale 0-5)
 - Drayage charges to move container to CES
(scale 0-5)
 - Special handling charges for CET exams.
(scale 0-5)
 - Container storage charges.
(scale 0-5)
 - Charges for refrigerated container hookups.
(scale 0-5)
- Total Fee Structure Rating (scale 0-30)

3. Equipment

The applicant should provide a detailed list of cargo handling equipment and any other equipment identified in the CES solicitation. The cargo handling equipment should be sufficient to handle the diverse types of cargo that CBP, especially specialized teams, are likely to examine in the port. This includes the ability to make cargo available for examination in an efficient and timely manner. Cargo handling equipment includes:

- Forklifts and the various attachments for special cargo like drums, rolls of fabric,

or freight in bags.

(scale 0-5)

- Heavy forklifts for machinery

(scale 0-5)

- Hand tools for opening and closing crates of all sizes.

(scale 0-5)

- Yard tractors for backing in containers that have been dropped off in the operator's yard.

(scale 0-5)

- The applicant should provide a list of all employees involved in the CES operation. There should be enough employees at the facility to ensure a steady flow of cargo to be examined given the exam load of the port.

(scale 0-5)

An applicant that has enough forklifts, hand tools, yard tractors, personnel, and other equipment to be able to keep the devanning and reloading of containers flowing without delays should be rated 4-5. If an applicant's lack of equipment/personnel will cause delays, then the rating should be 1-3. An applicant's lack of equipment/personnel that will result in significant delays should rate a 0.

Total Equipment Rating

(scale 0-25)

4. Experience

The experience of an applicant in international cargo operations and knowledge of CBP Procedures should be rated on the following factors:

- Does the applicant understand international cargo operations?

(scale 0-5)

- Does the applicant understand CBP procedures and regulations?

(scale 0-5)

- Does the applicant understand the methods and paperwork by containers Are moved from a steamship line's terminal or trucking terminal?

(scale 0-5)

- Does the applicant understand the CBP release system?
(scale 0-5)
- Does the applicant understand the role of a CBP broker in international cargo operations?
(scale 0-5)
- Does the applicant understand the conditions of a custodial bond?
(scale 0-5)

An applicant who has demonstrated experience in international cargo operations and knowledge of CBP procedures and regulations should be rated 4-5 assuming CBP has not had any serious problems with the applicant. An example of a serious problem includes a pattern of misdelivery by the applicant. Applicants who have no experience but have demonstrated a willingness to learn may be rated 3. Applicants with experience, but problems with CBP in the past will be rated 1-2. Applicants with no experience and no apparent willingness to learn, will rate a 0.

Total Experience Rating (scale 0-5)

5. Local Criteria

A port may require local criteria for special requirements at the port. For example, a port may require applicants for a CES to become a bonded cartman, because the operator will be required to pick up the merchandise for examination and take it to the CES facility on an established schedule. Additionally, a port may identify additional CBP equipment requirements for the CES operator to furnish at no costs to the Government. The port should clearly state the local criteria in the notice published by the port director seeking applications to operate a CES.

A port should follow the same pattern of rating local criteria as it followed for the general criteria. An applicant who has more than adequate means for meeting all of the will be rated 4-5, adequate means will be rated 3, and inadequate means will be rated 1-2. Substantially inadequate means will rate a 0.

(scale 0-5)

Total Local Criteria Rating

(scale 0-?)

Total Overall Rating

52.222-1 Notice to the Government of Labor Disputes.

As prescribed in 22.103-5(a), insert the following clause:

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

52.222-41 Service Contract Act of 1965.

As prescribed in 22.1006(a), insert the following clause:

SERVICE CONTRACT ACT OF 1965 (NOV 2007)

(a) *Definitions.* As used in this clause—

“Act” means the Service Contract Act of 1965 (41 U.S.C. 351, *et seq.*).

“Contractor,” when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term “Government Prime Contractor.”

“Service employee” means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, *Code of Federal Regulations*, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C of 29 CFR Part 4.

(c) *Compensation.*

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (*i.e.*, the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (*i.e.*, appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and

promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with paragraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) *Adjustment of compensation.* If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (c)(2) of this clause by furnishing equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts.* If this contract succeeds a contract subject to the Act under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.*

(1) The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Act—

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Act.

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and interpretations.* Rulings and interpretations of the Act are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's certification.*

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(q) *Variations, tolerances, and exemptions involving employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision—

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(t) *Disputes concerning labor standards.* The U.S. Department of Labor has set forth in 29 CFR parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

52.222-42 Statement of Equivalent Rates for Federal Hires.

As prescribed in 22.1006(b), insert the following clause:

STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:
It is not a Wage Determination*

Employee Class Monetary Wage—Fringe Benefits

Employee Class	Monetary Wage—Fringe Benefits
_____	_____
_____	_____
_____	_____
_____	_____

(End of clause)

52.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).

As prescribed in 22.1006(c)(1), insert the following clause:

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT—PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (SEP 2009)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended, (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

The McNamara-O'Hara Service Contract Act (SCA)

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Frequently Asked Questions

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[Does the Service Contract Act \(SCA\) apply to all government contract work?](#)

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OVERVIEW

The McNamara-O'Hara Service Contract Act (SCA) applies to every contract entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services to the United States through the use of service employees. The SCA requires contractors and subcontractors performing services on covered federal or District of Columbia contracts in excess of \$2,500 to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. Safety and health standards also apply to such contracts.

The compensation requirements of the SCA are enforced by the Employment Standards Administration's Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL). The SCA safety and health requirements are enforced by the Occupational Safety and Health Administration (OSHA) within DOL.

COMPLIANCE ASSISTANCE MATERIALS

BASIC INFORMATION

[Employment Law Guide - Prevailing Wages in Service Contracts](#) - Describes the coverage and basic requirements of the McNamara-O'Hara Service Contract Act (SCA).

[Compliance Assistance - SCA Web Page](#) - Provides information on the wage and benefit requirements of the SCA.

SCA Compliance Assistance Memorandum 198 - May 2005 memorandum describing fringe benefit changes.

[Service Contract Act Directory of Occupations](#)

[Service Contract Act FAQs](#)

[How to Complete Standard Form 98](#) - The form used by federal contracting agencies requesting a wage determination.

Filing a complaint - DOL's Wage and Hour Division manages complaints regarding violations of the various laws and regulations it administers. To file a complaint concerning one of these laws, contact your nearest [Wage and Hour Division office](#) or call the Department's Toll-Free Wage and Hour HelpLine at 1-866-4-US-WAGE.

FACT SHEETS

[Payment of Special Minimum Wages to Workers with Disabilities Who Are Employed on Federal Service Contracts Subject to the Service Contract Act](#)

POSTERS

[Notice to Employees Working on Government Contracts \(En Español\) - PDF](#)

RECORDKEEPING

Each contractor and subcontractor performing work subject to the McNamara-O'Hara Service Contract Act (SCA) shall maintain certain records for each employee performing work on the covered contract. The following is a list of the basic records that must be maintained for three years from completion of the work include:

- Name, address, and social security number of each employee;
- The correct work classification(s), wage rate(s), and fringe benefits provided (or cash equivalent payments provided in lieu of fringe benefits);
- The total daily and weekly compensation of each employee;
- The number of daily and weekly hours worked by each employee;
- Any deductions, rebates, or refunds from each employee's compensation; and
- Any list of a predecessor contractor's employees which had been furnished showing employees' length of service information.

See [29 CFR 4.6\(g\)](#) and [29 CFR 4.185](#) for further information.

APPLICABLE LAWS AND REGULATIONS

[McNamara O'Hara Service Contract Act \(SCA\) \(PDF\)](#) - Requires payment of prevailing wage rates and fringe benefits to service employees employed on contracts to provide services to the federal government.

[29 CFR Part 4](#) - Regulations describing the labor standards for federal service contracts.

[29 CFR Part 6](#) - Regulations describing the Rules of Practice for administrative proceedings enforcing labor standards in federal and federally assisted construction contracts and federal service contracts.

[29 CFR Part 8](#) - Regulations describing practice before the Administrative Review Board with regard to federal service contracts.

RELATED TOPICS AND LINKS

Wage Determinations On-Line - This Web site provides a single location for federal contracting officers and the public to use in obtaining appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDs) for each official contract action.

DOL's Office of Federal Contract Compliance Programs - OFCCP administers the laws prohibiting discrimination in hiring or employment decisions on the basis of race, color, gender, religion, or national origin by government contractors and subcontractors and federally assisted construction contracts and subcontracts. **See also Compliance Assistance By Topic - Equal Employment Opportunity.**

Title I - Contract Work Hours and Safety Standards Act - This Act requires contractors and subcontractors with covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. **See also Compliance Assistance By Law - The Contract Work Hours and Safety Standards Act (CWHSSA).**

Employment Law Guide - Minimum Wage and Overtime Pay - The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. **See also Compliance Assistance By Law - The Fair Labor Standards Act (FLSA).**

See also Compliance Assistance By Topic - Wages and Hours Worked - Wages under Federal Contracts.

DOL CONTACTS*

Local Offices

For questions on other DOL laws,

please call DOL's Toll-Free Help Line at 1-866-4-USA-DOL (1-866-487-2365). Live assistance is available in English and Spanish, Monday through Friday from 8:00 a.m. to 8:00 p.m. Eastern Time. Additional service is available in more than 140 languages through a translation service.

Tel: 1-866-4-USA-DOL (1-866-487-2365)

TTY: 1-877-889-5627

****Pursuant to the U.S. Department of Labor's Confidentiality Protocol for Compliance Assistance Inquiries, information provided by a telephone caller will be kept confidential within the bounds of the law. Compliance assistance inquiries will not trigger an inspection, audit, investigation, etc.***