

SCA-113

May 3, 1972

This is in reply to your letter of March 31, 1972, concerning compensable work time of security guard trainees who will receive 40 hours of training required by a service contract before they are allowed to perform work pursuant to the contract. The contract is subject to the Service Contract Act.

Your first three questions concern payment for the required 40 hours of orientation training which will be given before April 16, 1972, the date the contract begins. Whether time spent in training is compensable is discussed on pages 7 through 9 of the enclosed pamphlet, Hours Worked. Under the six criteria given on page 9 for determining the employment relationship of trainees, we would view the security guard trainees as employees. The training is oriented in terms of "company practices, policies and rules", and is required under the terms of the contract before any employees are permitted to perform work pursuant to the contract. This indicates that the employer derives an immediate advantage from the training. The training is given to persons who will work on the contract, and the employer can fulfill the contract only by employing such specifically trained employees.

Additionally, the training time is not excluded from consideration as hours worked under any of the standards discussed on pages 7 and 8. Therefore, as stated in the last paragraph on page 8, the employee should be paid for all time spent in learning his job. Hours worked generally includes the time spent in initial indoctrination and training as well as time devoted to subsequent training.

In reply to question 1, all employees must be paid. The answer to question 2 is that it is not lawful to compensate only those who complete the training and are "hired".

In response to questions 3 and 4, since the employees undergoing orientation are not performing guard services for which wage rates are specified in an applicable wage determination, the contractor may compensate these employees at the minimum rate of pay prescribed by section 2(b)(1) of the Service Contract Act (currently \$1.60 an hour) for the time spent in a training period either before or after the date the contract commences. In this regard, see sections 4.152 and 4.153 of Regulations, 29 CFR Part 4.

Sincerely,

Horace E. Menasco
Deputy Assistant Secretary