

SCA-17

March 16, 1978

This is in further reply to your letter of December 9, 1977, regarding the application of the Service Contract Act to different types of contracts awarded by the Army and Air Force Exchange Service.

We have thoroughly reviewed the types of contracts listed in your letter, and our position on the applicability of the Service Contract Act to each of these contracts is summarized in the attachment to this letter. In addition, we are enclosing for your information copies of prior letters to the Army and Air Force Exchange Service and other Federal agencies more fully explaining our position regarding the applicability of the act to certain types of concessionaire contracts. The positions expressed in these letters remain unchanged.

Generally, where the terms of a concession contract provide for the use of government space or equipment on the installation for the activity involved or prescribe to a significant extent conditions relating to prices, performance, and quality or type of services, such contract is considered to have as its principal purpose the furnishing of services desired by the Government for its personnel, and is subject to the Service Contract Act.

With respect to "agency contracts," we do not have sufficient information to give you a definitive opinion. As noted in our letter of December 5, 1973 to Colonel Burns, the Act would apply if the principal purpose of the agency contract is to furnish services through the use of service employees. If you have any further questions regarding the applicability of the Act to a particular type of agency contract or any of the other types of contracts listed in your letter, we would be pleased to review the matter again upon submission of additional detailed information including pertinent contract documents.

Sincerely,

Ray J. Dolan
Assistant Administrator