

SCA-22

April 8, 1982

This is in reply to your letter of *** regarding a contractor's obligation to bear the cost of its employees' physical examinations, guard licenses and firearm permits under a security services contract with the General Services Administration.

By way of background, the Service Contract Act applies to government contracts, the principal purpose of which is the furnishing of services, including security services, through the use of service employees. It has been the position of this Department that where an employee performing work subject to the Service Contract Act (SCA) is required to have a physical examination or possess a guard license and firearm permit either by the government contract, state or local law, the employer, or the nature of the job, the costs of such items are business expenses of the employer which may not be borne by the employee to the extent that such costs would reduce the employee's hourly wage rate below the minimum wage rate required by the SCA wage determination.

Further, since the costs of such examinations, licenses and permits are properly business expenses of the employer, such costs do not constitute the furnishing of "bona fide fringe benefits" for purposes of the Service Contract Act (see section 4.170(b) of Regulations 29 CFR Part 4, copy enclosed). Accordingly, such costs will not be reflected in the applicable SCA wage determination.

Sincerely,

Sylvester L. Green
Director, Division of
Government Contract Enforcement