

Contract Price Adjustments Under the SCA Are Allowed for Increased Contractor Costs, Even if the Required Benefit Level Did Not Increase

The Court of Appeals for the Federal Circuit recently ruled that a contractor was entitled to recover its increased costs of paying required health benefits under the Service Contract Act ("SCA"), even if the prescribed level of benefits did not increase. The court held that the FAR's SCA Price Adjustment Clause provided for recovery where the contractor incurred more costs to pay its employees health benefits under a collective bargaining agreement.

In *Lear Siegler Services, Inc. v. Rumsfeld*, the Court addressed a situation where the contractor qualified as a successor contractor under section 4(c) of the SCA. Pursuant to the existing collective bargaining agreement, which was incorporated into the wage determination, the contractor was required to provide its employees a defined-benefit health plan. In the succeeding year, although the level of defined benefits did not increase, the cost of providing its employees the same level of benefits increased. The contractor sought to recover its additional costs under the SCA Price Adjustment clause, FAR 52.222-43. The Armed Services Board of Contract Appeals ("ASBCA") denied the claim because there was no increase in the level of required health benefits.

The court reversed the ASBCA, finding that the Price Adjustment clause was not limited to situations where the level of required benefits increased. Instead, the court ruled that the Price Adjustment clause also applied where the contractor incurred increased costs to pay the same benefits. The court based its decision on the language of the clause, which focuses on the effect on the contractor. The court noted that this interpretation is consistent with other provisions of the SCA regulatory scheme, which utilize the cost to the contractor. Finally, the court found that this construction of the clause was consistent with the court's ruling in *U.S. v. Service Venture, Inc.*, 889 F. 2d 1 (Fed. Cir. 1990), where the contractor recovered for increased vacation costs resulting from increased seniority of the workforce.

The reasoning of this decision, by the highest court generally to hear government contract cases (the only higher court, the U.S. Supreme Court, rarely accepts government contract law appeals), may have a broad effect on SCA price adjustments. The case is not limited to successor contracts, collective bargaining agreements or health benefits. Whenever a contractor experiences increased costs caused by the requirements of a SCA wage determination, the contractor should consider submitting a claim, even if the required wage and benefit levels did not increase.

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