

Frequently Asked Questions – Service Contract Labor Standards (SCLS)

1. Why is GSA removing the wage determinations from Schedule contracts that offer services?

This update is a result of FAS' discussions with the U.S. Department of Labor (DOL), which retains the sole enforcement authority on SCLS. Our goal is to better align the Schedules program with DOL's SCLS-compliance enforcement practices. DOL has stated that the "most recent" wage determination must be incorporated into the task order, based on the place of performance, and therefore it is the task order CO's responsibility to incorporate the "most recent" applicable wage determination for the work performed at the time of award.

According to DOL compliance procedures, *all* Schedules under which services are provided (both professional and non-professional) must contain the applicable SCLS clauses and provisions. The SCLS will apply to *all* SCLS-covered labor categories under these services Schedules. Wage determinations will not be incorporated at the Schedule level, but must be incorporated at the task order (TO) level and should be pulled using DOL prescribed procedures, which may include pulling them directly from the DOL WDOL site (www.wdol.gov) or utilizing the e98 process.

2. Under this updated policy, what is the responsibility of the Task Order Contracting Officers (TCOs) when placing SCLS applicable orders under Schedule?

TCOs will be responsible for following standard SCLS practices, including FAR 22.1006 which directs the Task Order CO to identify if the task order falls under SCLS at the task order level. It is also the responsibility of the TCO to determine the place of performance and pull current wage determinations directly from wdol.gov or via the e98 process, at the time of the task order. In addition, TCOs may add additional non-conflicting SCLS terms and conditions that are not covered by the standard SCLS terms and conditions already included at the Schedule level as needed.

3. Why do we need to apply Service Contract Labor Standards to our professional services Schedules?

DOL, the sole enforcement authority of the SCLS, has been reviewing Schedule task orders and determining SCLS applicability based on the principal purpose of that order and not the principal purpose of the Schedule. Some factors DOL reviews when determining SCLS applicability are the nature of the contract work, the type of work performed by service employees, how necessary the work is to contract performance, the amount of contract work performed by service employees compared to professional employees, and the total number of service employees employed on the contract. In order to protect customer agencies that place these task orders against our Schedules, it is a best practice to include SCLS provisions at the Schedule level.

For example, providing helpdesk service in the IT arena used to require professional employees whereas today, these services are generally provided by service employees. Therefore, though the principal purpose of the Schedule is professional IT services, it is possible to have a task order where there is significant or substantial involvement by service employees. The SCLS applies to a task order for services which may involve the use of service employees to a significant or substantial extent even though there is some use of bona fide professional employees in the performance of the task order.

4. Wage Determinations (WDs) are no longer part of Schedules. What are the contractor's responsibilities at the Schedule contract level?

For current contractors, once the mass modification is signed, SCLS clauses will be updated in their contract and the WDs will be removed from their Schedule contract, effective immediately. Contractors should ensure that they are in compliance with current WDs posted on wdol.gov and if necessary, request a pricing increase in accordance with the Schedule terms and conditions.

All price lists that currently include an SCA matrix should remove the matrix and make sure the (**) are used to indicate SCLS applicability to labor categories and update instructions, within 90 days of signing the modification. Failure to adopt the modification could result in risky errors in compliance with SCLS and may result in your FSS contract no longer being in compliance with SCLS.

5. At what point after the Schedule contractor signs the mass modification to remove the WDs is the task order contracting officer responsible for updating the WDs as part of ongoing orders off Schedule?

The removal of the WDs is not immediately effective for Schedule task orders or Blanket Purchase Agreements (BPAs). For task orders with multi-year periods of performance or multi-year BPAs, the most current published WD from wdol.gov must be incorporated at option years, extension periods, annual review date, or on the next annual anniversary date of task order award or BPA award date. If the task order has a period of performance longer than one year, for example a two-year base period, the new WDs should be incorporated following DOL standard procedures, on the next anniversary date of the task order award.

6. How will GSA notify ordering activities of this change?

GSA will be updating relevant portions of the MAS Desk Reference Guide as well as applicable MAS training modules to incorporate the new guidance, which will point TCOs to DOL's directed procedures for SCLS compliance.