

# The Service Contract Act

## Qualified Benefits vs. Cash-in-Lieu of Benefits



Employers who have contracts with the federal government that are subject to the Service Contract Act (SCA) must meet the wage and benefit provisions of the contract's Wage Determination (WD).

There are multiple ways in which a federal contractor can meet the Fringe Health & Welfare Obligation:



Pay cash-in-lieu of benefits



Make retirement plan contributions



Directly pay for qualified benefits



Establish a Trust and contribute H&W obligation irrevocably, which in turn pays for qualified benefits

It is common for contractors to utilize a combination of these methods to meet their fringe obligation. However, the practice of paying Cash-in-Lieu of qualified benefits has several adverse outcomes:

- ✓ If offered cash, most employees will take the cash option, and only those employees who need medical cover-age will take it. An unintended consequence of cash-in-lieu is that it will create adverse selection in the medical plan leading and ultimately drive up premiums.
- ✓ Allowing employees to take Cash-in-Lieu of benefits will drive up employer costs, as both the employee and employer are subject to payroll taxes and other related items. These costs can be upward of 20% of payroll.

## Employers who utilize the health and welfare dollars to provide qualified benefits and retirement plan contributions realize many advantages:

### Significant savings in payroll taxes and related items by allocating H&W to benefits vs. paycheck:

The payroll tax burden on employers can be over 20%. The added payroll burden translates to higher costs, affecting the profitability of the contract or the competitiveness of the bid.

### Employee retention is better with benefits:

Providing a comprehensive benefit package sends a clear message to your employees that they are a valued member of your company. That message easily translates into higher productivity, as well as higher morale.

### Paying Cash-in-Lieu instead of providing employer-paid health insurance, while counting these amounts as employer contributions to medical coverage, exposes employers to significant penalties under the Affordable Care Act (ACA):

ACA has penalties for not offering affordable health insurance. The fines can be over \$2,200 per employee.

### Contract Awards:

When the government reviews contractor proposals, price is often not the only factor. They also often factor in employee benefit quality into their decision. Contractors that offer quality benefit packages to their SCA employees are more likely to be awarded the contract.

### Established benefit trusts can include additional cost-saving features:

Employee benefit trusts for SCA employees often contain elements, such as individual Premium Reserve Accounts or forfeitures provisions, that enable employers to provide more benefits to employees for less. Additionally, the contractor can outsource the hourly H& W accounting to a Third-Party Administrator that specializes in managing SCA fringe benefit compliance. These and other expenses can be paid for by the health and welfare dollars, translating into even more significant cost savings for the contractor.



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### WHY GSA National recommends the Trust & Premium Reserve Accounting model for mid-to-large size contractors.

A Trust is the most effective and efficient method used to meet the SCA H&W obligation. The Trust is established as an irrevocable, tax-exempt trust, for the benefit of the contractor's employees, and may be used to fund any number of Plans. This meets the strict definition of a "bona fide" plan, as set forth in 29CFR. Thus, as soon as the contractor deposits its H&W contributions into the Trust, the contractor has met its obligation under SCA. The trust model can be utilized in several ways to ensure regulatory compliance and cost efficiencies. **Below is a typical approach:**

The contractor's H&W contributions are deposited into the Trust each month. Credits may be applied before deposit for any eligible direct paid benefits such as sick pay, 401k match, etc. H&W contributions are allocated to individual employee Premium Reserve Accounts (PRA). All other benefit costs, including insured premiums, self-funded claims, etc., are then deducted from PRAs and paid out of the Trust by GSA National, the plan administrator. Any H&W funds deposited in excess of the cost of benefits remain in employee PRAs and are available for future use in times of unpaid leave, site shutdown, etc.

Since proper recordkeeping is paramount in SCA compliance, records that adequately segregate not only SCA from non-SCA employees but also SCA employees by contract becomes extremely important. The Department of Labor presumes that all employees working in the department or division where such SCA work is performed have worked on the contract during the period of performance and are subject to the SCA unless the contractor can show otherwise. Since the burden of proof is on the contractor, it is incumbent upon the contractor to keep adequate records. GSA maintains these records and provides the contractor with monthly updated reports. GSA is also available to work through the reports with the DoL should that be necessary.

In summary, the contractor can remain in compliance with the SCA, competitive in the marketplace, and profitable for its shareholders by instituting proper fringe-dollar projections and reconciliation processes.

Contact one of our SCA subject matter specialists today to learn how GSA National's trust solution could be right for your compliance model. 1-800-250-2741 ext. 172, or visit us online at [www.GSANational.com](http://www.GSANational.com)!



## Compliance | Education | Support

GSA National has been navigating the Government Contract Compliance Landscape Since 1991. We understand the bid implications of SCA compliance and can help you navigate the ever changing and complex world of SCA compliance. Let our team of compliance experts be the asset that increases your ability to submit winning proposals.