

FCE BENEFIT SOLUTIONS



SCA & ACA Compliance Principles
-Webinar

Planning for compliance and impact of ACA

Starts with understanding the basics:

- The McNamara-O'Hara Service Contract of 1965 (SCA)
- Davis Bacon and Related Acts (DBRA)
- The Affordable Care Act (ACA)

McNamera O'Hara SCA Act of 1965

The Service Contract Act (SCA):

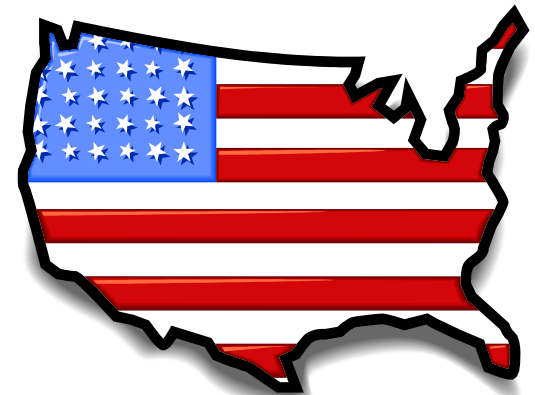
- Requires contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates including prospective increases contained in a predecessor contractor's CBA
- The Department of Labor (DOL) issues wage determinations on a contract-by-contract basis in response to specific requests from contracting agencies
- These determinations are incorporated in the contract



SCA wage determination

SCA hourly workers currently receive the following:

- **Health & Welfare** – \$4.13, \$4.27, \$4.41 per hour (\$4.13 if it includes E.O. 13706 Paid Sick Leave)
- **For the following categories of services**
 - IT staff
 - Security Guards
 - Janitorial and custodial
 - Food service employees
 - Commissary shelf-stocking
 - Engineering
 - Phone operations
 - Administrative staff
 - Grounds maintenance
 - Vehicle maintenance
 - Security
 - U.S. Mail Haulers



Health & welfare fringe benefits



- Workers must be paid an hourly health and welfare benefit
- These dollars are in addition to the base wage paid to the employee
- The most current health and welfare fringe on a SCA contract is \$4.13 per fringe paid hour
- Fringe benefits that meet the requirements of SCA are described in 29CFR Part 4, Section 4.171

Providing health & welfare benefits

The employer has sole discretion over this SCA H&W obligation and may choose to:

- Put the health and welfare fringe in the paycheck and give it to the employee as added wage (“cash-in-lieu”); or
- Use it to provide “bona-fide” health & welfare benefits



Cost-savings calculator

FULL TIME Employees on Contract (Not Electing Coverage)		50
Estimated PART TIME Employees on Contract (74 Hrs./Month)		33
Average Cash Wages:		\$12.00
Fringe Rate:		\$4.13
Workers Compensation/(G/L) Rate per \$100:		\$4.00
Cost Saving Analysis	No Benefit Plan	Benefit Plan
Wage Determination	\$12.00	\$12.00
Health & Welfare Benefit Paid As Cash	\$3.71	\$0.00
Total Cash Wages	\$15.71	\$12.00
Payroll Burden on Cash Wages*:	\$1.75	\$1.34
FICA 7.65%		
Federal Unemployment Taxes .8%		
State Unemployment Taxes 2.7%		
Workers Compensation/(G/L) Premiums	0.63	0.48
Contribution to Fringe Benefit Plan		3.71
Employer Cost per Hour	\$18.09	\$17.53
Hourly Savings per Employee		\$0.56
Annual Savings per Part Time Employee		\$499.11
Annual Savings per Full Time Employee		\$1,169.10
Employer's Annual Savings		\$74,925.51
Employer Savings on 5 Year Contract		\$374,627.56
Estimated Overall Contract Savings **		2.82%

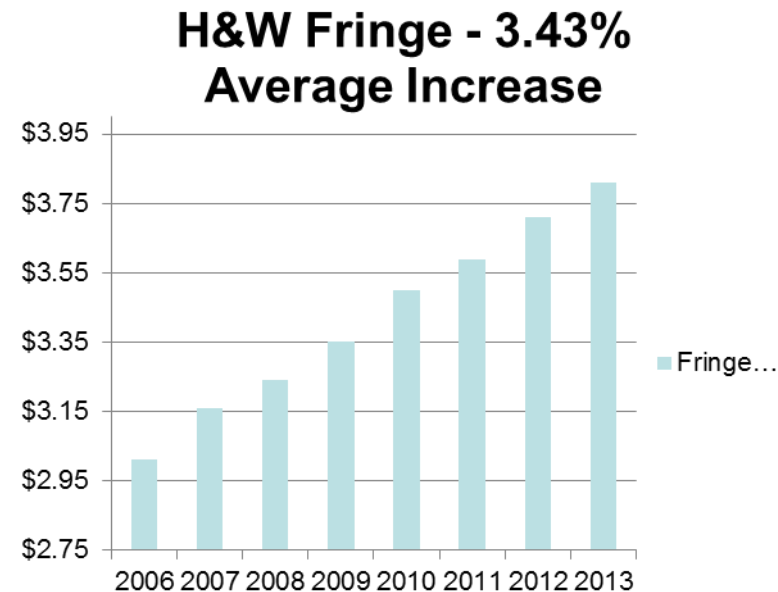


*Used for illustration purposes only; percentages will vary by employer.

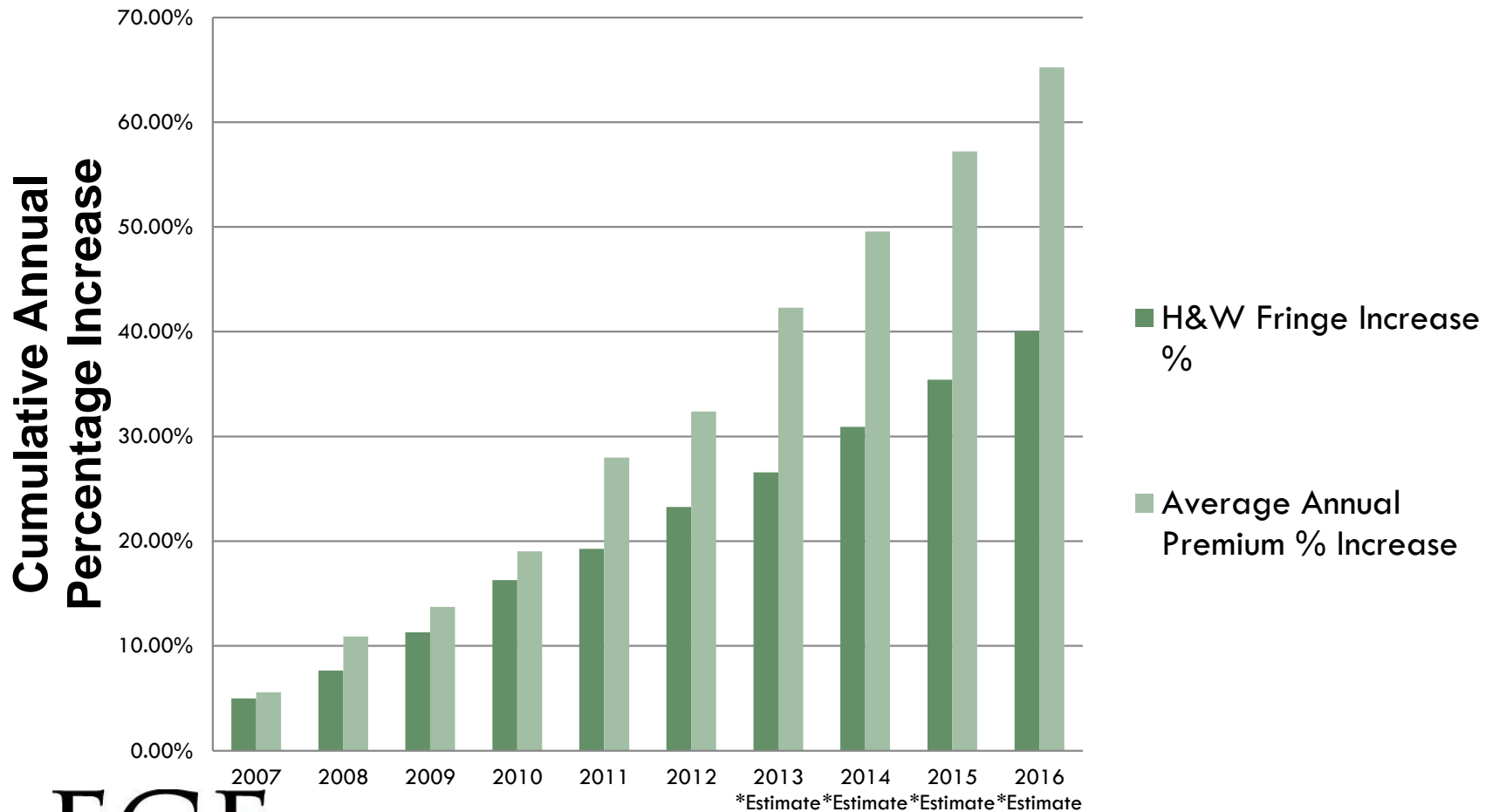
**Based on an indirect / overhead rate of 35%.

How to plan for and minimize exposure to rising health insurance costs?

- Fringe increases have averaged 3.43 % over the last 7 years
- Increases for Health Insurance for Single Coverage has averaged 5.11%*
- Tough decisions will need to be made on how to control escalating health costs which exceed year over year fringe increase



Cumulative Increases in Health Insurance Premiums for Single Coverage vs Annual Health & Welfare Fringe Increase



* 2007-2012 Data SOURCE: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 1999-2012

Patient Protection and Affordable Care Act

The Patient Protection and Affordable Care Act (PPACA) is commonly referred to as the Affordable Care Act (ACA):

- ACA includes numerous provisions taking effect between 2010 and 2020
- It's important to note that planning to correctly allocate fringe dollars to meet the ACA employer mandate requirements is different for SCA-covered employees
 - ✓ Section 125 issues
 - ✓ Plan eligibility Vs. ACA eligibility status
- To decide the best strategy for complying with ACA, SCA employers need to know the following:
 - ✓ Who is covered under ACA?
 - ✓ What benefits are required?
 - ✓ What does a contractor have to provide?



Who is covered under ACA?

The Affordable Care Act (ACA) covers:

- Full-time employees (those deemed by the ACA to average at least 30 hours of service per week)
- Standard look-back Measurement Periods
- Measurement periods can be a minimum of 6 months and up to 12 months

What Benefits are required?

Offer at least Minimum Value (MV) health plans (major medical)

- ACA applies to health insurance and self-funded health plans
- MV plans are baselines for coverage required under the Affordable Care Act
- All plans must be considered affordable

Satisfying the employer mandate via fringe

In order to use H&W fringe benefit dollars to satisfy the ACA employer mandate for its full-time population:

- An employer should avoid cash-in-lieu option because this process does not satisfy the employer mandate
- Healthcare plan premium/equivalent premium should be 100% Employer fringe-paid to assure ACA affordability and adequate employee participation
- Fringe is only considered employer dollars when the healthcare plan is paid directly from the H&W fringe

To structure a compliant plan using fringe dollars:

- Employees should be required to participate in the employer's healthcare plan unless employer allows a waiver of healthcare, based on compliant ACA coverage through another employer-sponsored healthcare plan
- Participation level will affect plan rates and/or employee cost share
- What is a valid waiver?
 - Coverage as a dependent in Spouse's employer's plan
 - Coverage from another employer (e.g., retirement medical benefits)
- Is Tricare a valid waiver?
 - Not recommended. Obligated compensatory benefit is subject to \$5,000 civil money penalty under John Warner Defense.
- Is Medicare/Medicaid a valid waiver?
 - No

Why use a TPA

There are multiple reasons groups choose to outsource their fringe compliance services:

- Allows the company to focus on their core mission
- SCA/ACA management and reporting
 - W-2, 1095's, etc.
- Administrative costs may be paid by the fringe and not hit G&A
- Easy audit trail for compliance tracking
- Budget management



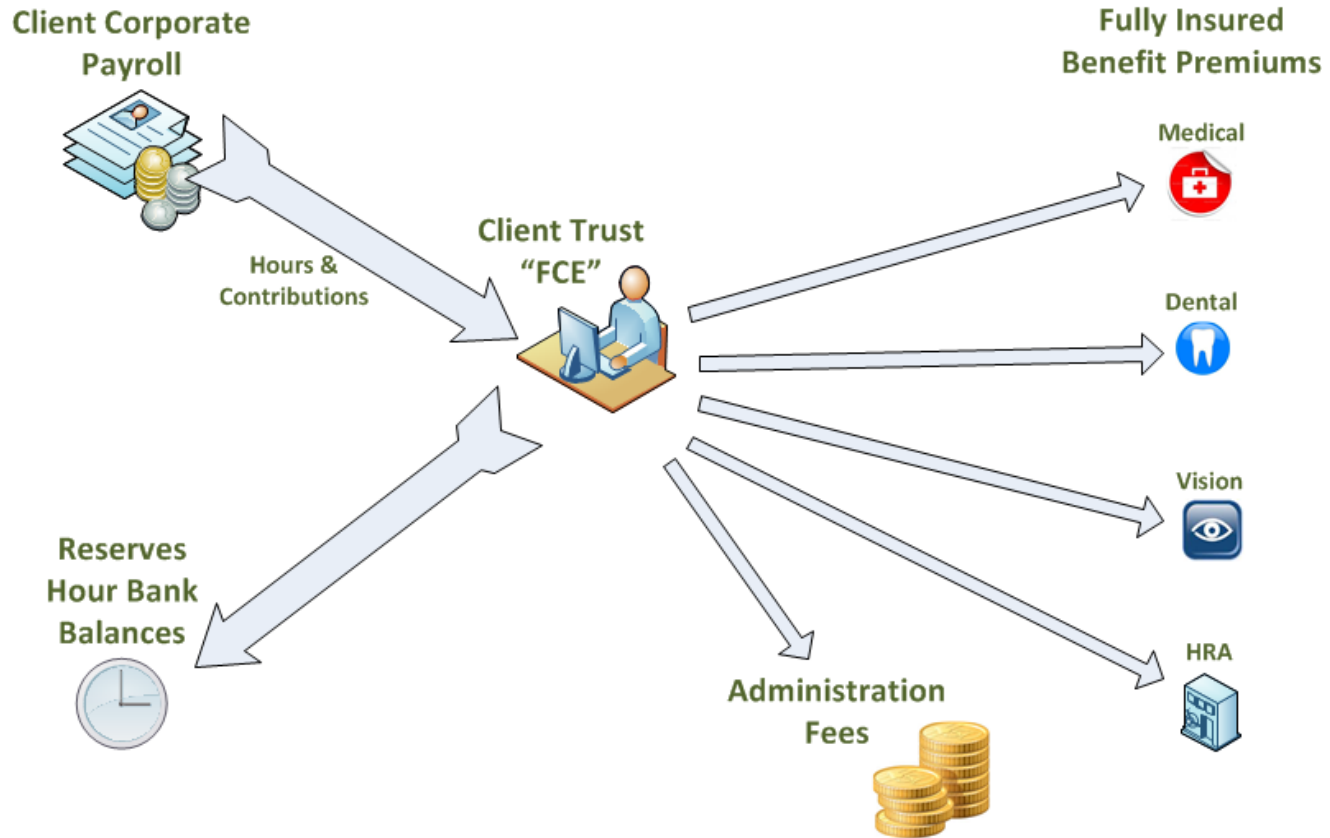
No More Compliance Headaches

- Affordable Care Act
- ERISA
- Service Contract Act
- DOL Audit Support
- SAR – Summary Annual Reports
- Annual audits (5500)
- SPD – Summary Plan Descriptions
- COBRA & FMLA tracking
- Medicare Part D & CMS filings
- HIPAA

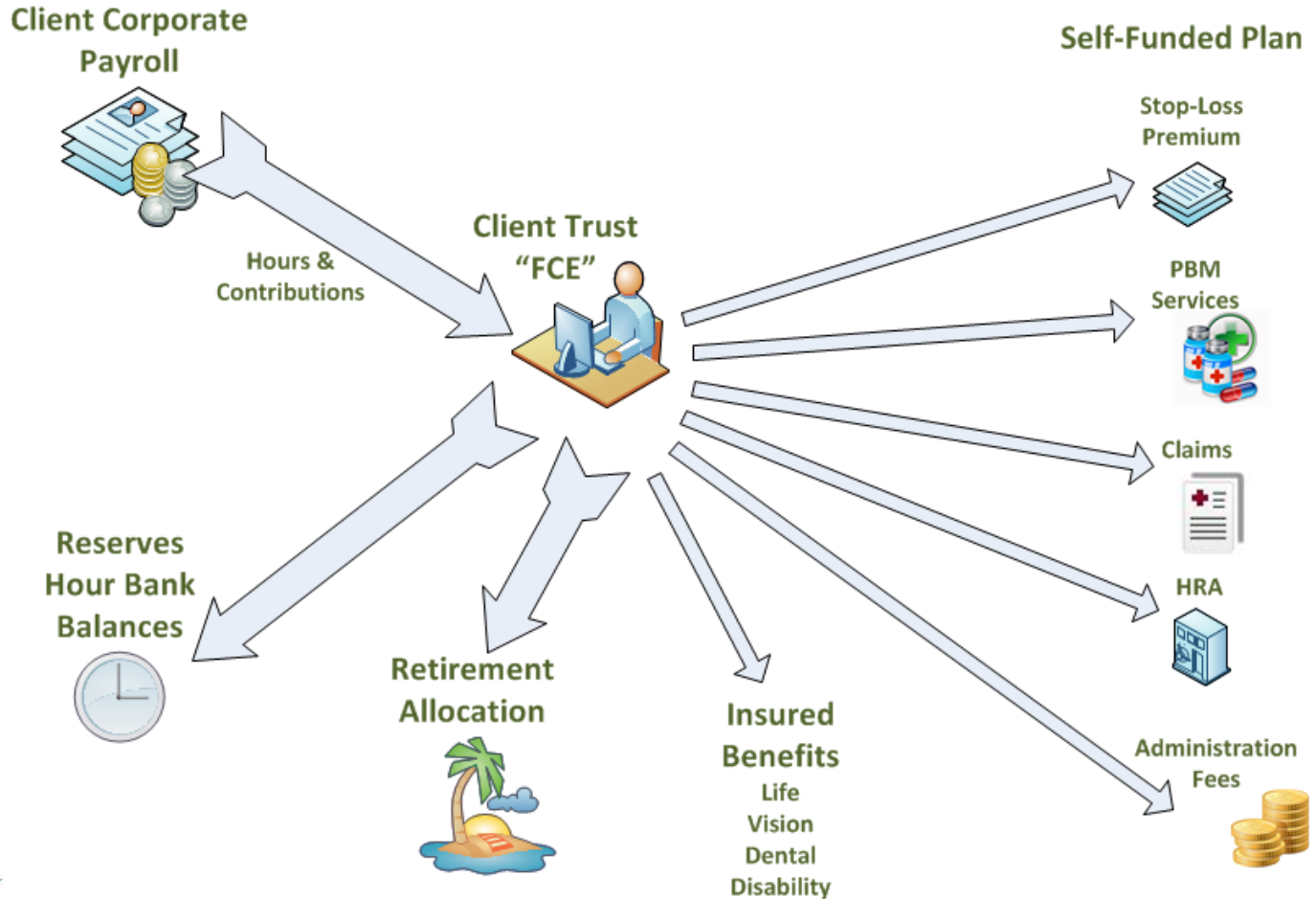
Possible Penalties for Non-Compliance

- Back wages and benefits
- A hold on payments for any federally funded contracts
- Contract cancellation and re-procurement costs
- Personal liability for corporate officials
- Three-year debarment from all government contracts

Fully insured example



Self-funded example



Things to think about

- The Federal Government in order to “level” the playing field provides contracts through a bidding process
- Bidding Government Contracts is very competitive – to win, companies must work on low margins and reduce their G&A load
- Companies that bid the H&W fringe dollars going into benefits have a competitive advantage
- The importance of achieving SCA compliance



How to remain competitive in a market of Low Price Technically Acceptable – LPTA contracts?

Think long-term!

- Health insurance costs rising faster than the fringe increases suggest that making tough decisions today may pay dividends in the future
- Remember, under SCA guidelines, contractors cannot force an employee to pay for fringe benefits from their wages
- Therefore, if a contractor requires an employee to participate in its benefit plan, costs have to be contained within the fringe or become a liability to the contractor
- Without a proper strategy, hemorrhaging health plan related costs could reduce profits on a 3, 5 or 7 year contract

How to remain competitive in a market of Low Price Technically Acceptable – LPTA contracts? *(continued)*

Remain competitive by:

- Eliminating all remaining cash payments in lieu of benefits
- Consider retirement, supplemental health or ancillary-only plans for part-time employees
- Reducing or eliminating contributions toward dependent coverage
- Reducing or eliminating any sick leave or excess vacation provided above what is required by the contract

Your benefit compliance experts

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