



Good Jobs Nation
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April 8, 2015

The Honorable Thomas E. Perez
Secretary of the United States Department of Labor
200 Constitution Ave, NW
Washington DC 20210

Mr. Mark Lara
Director, Baltimore District
United States Department of Labor
Wage and Hour Division
2 Hopkins Plaza, Room 601
Baltimore, MD 21201

Dear Secretary Perez and District Director Lara:

Good Jobs Nation respectfully requests that the Wage and Hour Division of the United States Department of Labor take urgent action to remedy serious and persistent violations of the Service Contract Act experienced by federally contracted workers at multiple locations in the District of Columbia, as detailed below.

General Background

The Service Contract Act (SCA) was enacted by Congress in 1965 as part of President Lyndon Johnson's War on Poverty, with the purpose of finally eliminating sweatshop conditions from federal contracting. The SCA provides that privately employed workers performing services under contract for agencies of the United States government must be paid no less than a minimum wage and benefit rate set for their occupation and locality by the U.S. Secretary of Labor.

Good Jobs Nation (GJN) is a new organization that advocates for low-wage federal contract workers. GJN has been contacted by employees of three federal contractors in Washington DC who have provided convincing evidence that they and their coworkers are being unlawfully compensated at levels far lower than those set by the SCA. These violations of the SCA are substantial, widespread, and persistent, and, as detailed further below, have



deprived the affected workers of over \$1,578,700 in unpaid wages and benefits.

That these violations are occurring at high-profile locations in the heart of the nation’s capital – including a Cabinet Department headquarters, at the monuments of the National Mall, and at the National Zoo – suggests that deliberate evasion of the SCA – and likely other labor protections – is rife both in Washington DC and throughout the country. More importantly, the effect of the violations described below, has been to keep dozens of working Americans in hardship and poverty.

In his July 24, 2014 Executive Order on Fair Pay and Safe Workplaces, President Obama announced new measures to stop scofflaw contractors from violating the basic legal rights of their employees. The violations of the SCA set out below underline both the urgent need for implementation of this Executive Order and the necessity for federal agencies, including the Department of Labor and the agencies that awarded the contracts described below – the Department of Education, the General Services Administration, the Department of Interior, and the Smithsonian Institution -- to take meaningful responsibility for enforcing both the letter and the spirit of the SCA and the other laws Congress enacted to protect America's low-wage workers.

Good Jobs Nation can assist DOL Wage and Hour in contacting the witnesses to these violations who are named or referred to in this Complaint. Please contact George Faraday, Esq. at Good Jobs Nation, 1900 L Street, NW, Ste 900, Washington, DC 20036; Tel (202)721-0660; Fax (202)721-0661.

I. Janitors at the Department of Education Headquarters

Good Jobs Nation has received evidence that the entire night-cleaning staff at the 9-story, 465,000 square foot Lyndon B. Johnson Building in the Washington D.C headquarters of the Department of Education, including the janitors who clean the Secretary of Education’s personal office, are being compensated at rates grossly violative of the standards set by the SCA.

1. The legal minimum wage for janitors in Washington DC required by the SCA is currently \$11.83 per hour, plus \$4.02 per hour in health and welfare

benefits, 10-days paid holidays, and up to four weeks of paid vacation depending length of service.¹

2. The workers who perform janitorial services at the Lyndon B Johnson Building report that they are paid a base wage of between \$9.10 and \$9.65 per hour, with no fringe benefits, no sick leave or vacation, and four days or fewer paid holidays. Good Jobs Nation can provide evidence that the following workers are failing to receive their proper rate of pay under the SCA:

- a. [REDACTED]: \$9.50 per hour (earnings statement for payperiod ending 1/31/15 attached);
- b. [REDACTED]: \$9.35 per hour (earnings statement for payperiod ending 1/31/15 attached);
- c. [REDACTED] is paid \$9.65 per hour (earnings statement for payperiod ending 1/31/15 attached);
- d. [REDACTED]: \$9.50 per hour (earnings statement for payperiod ending 1/31/15 attached);
- e. [REDACTED]: \$9.10 per hour (earnings statement for payperiod ending 1/31/15 attached);
- f. [REDACTED]: \$9.35 per hour (earnings statement for payperiod ending 1/31/15 attached);
- g. [REDACTED]: \$9.50 per hour (earnings statement for payperiod ending 1/31/15 attached). [REDACTED] has worked as contract janitor at the Department of Education building for eight years, including at least two years as an employee of the incumbent subcontractor. Her starting wage rate was \$9.00 per hour.

3. These workers report that in total around 21 people work under contract to clean the DoE building, generally working a four-hour evening shift five days per week, and that all these workers are paid at similar rates to those set out above. They further report that three Sabree employees provide janitorial services at the DoE during the day and that these employees are paid about \$13 per hour.

4. The workers whose names are given above receive earnings statements showing "Ace Janitorial Svcs LLC" as the payor. However, they report that

¹ Wage Determination No.: 2005-2103; Revision No.: 15, Date Of Revision: 12/22/2014, "Janitor" Occupational Code, #11150. Available at <http://www.dol.gov/whd/regs/compliance/wage/SCADirV5/SCADirectVers5.pdf>.



they perform services for the DoE pursuant to a contract held by Sabree, Inc. Each worker carries a security pass bearing their name, photograph and the legend "GSA Contractor" (photograph attached). They wear work smocks with Sabree's logo (photograph attached), and they report that performance issues are recorded on forms naming "Sabree" as the prime contractor.

5. Sabree's status as the prime contractor providing janitorial services at this site is confirmed by its own website at <http://www.sabreeinc.com>, and by information reported at usaspending.gov, which shows Sabree performing services at the Department of Education under General Services Administration contract #GS-11P-14-YT-P-0409. Sabree reports revenues on usaspending.gov of \$4 million per year.

6. The only public record of Ace Janitorial Svcs LLC's existence is a notice of incorporation for 10/04/2012, posted at Maryland Department of Assessments and Taxation (attached). This date is around the time Sabree assumed the prime contract at the Department of Education.

7. Upon information and belief, Sabree has subcontracted the janitorial night shift at DoE headquarters to Ace Janitorial Svcs. Upon further information and belief, Ace Janitorial Svcs was incorporated for the specific purpose of performing Sabree's work at the DoE.

8. Sabree's janitorial contract workers at the DoE are entitled to approximately \$7,500 in back wages and benefits for each year of their employment at the Department of Education headquarters. In total, these workers are owed approximately \$472,500 for the three-year time-period recoverable under the SCA.

II. **Groundskeepers at the Smithsonian National Zoo**

Good Jobs Nation has received evidence that all the groundskeeping staff at the Smithsonian National Zoological Gardens in Washington DC employed by Friends of National Zoo under contract with the Smithsonian Institution are paid less than they are legally entitled to under the SCA.

1. The Smithsonian Zoo groundskeeping staff are responsible for collecting trash from the entire area of the Zoo and removing snow from the Zoo's public walkways in winter. They are properly classified under the SCA

under the occupational category "Laborer, Grounds Maintenance," for which the applicable wage rate is \$13.07 per hour.²

2. The groundskeepers are employed by Friends of National Zoo (FONZ), a nonprofit organization incorporated in Washington DC, and located at 3001 Connecticut Ave, NW, Washington DC 20008, which since approximately 1958 has contracted with the Smithsonian Institution to manage the concessions areas of the National Zoo.

3. The Smithsonian Institution is a trust instrumentality of the United States,³ and as such its service contracts are generally subject to the SCA. Under Department of Labor regulations, the groundskeeping services performed by these employees fall within the coverage of the SCA. Under 29 CFR 4.133, DOL exempts concessions contracts, "principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public." However, the rule further provides that "[w]here concession contracts ... include substantial requirements for services other than those stated, those services are not exempt." *Id.* Since these workers provide a service "other than those stated," that is, groundskeeping, and the services they perform are a "substantial requirement" of FONZ's contract with the Smithsonian (they remove trash and snow for all or much of the entire facility), these services are covered by the SCA.⁴

4. Good Jobs Nation can provide evidence that the following workers are failing to receive their proper rate of pay under the SCA:

- a. [REDACTED]: \$9.80 per hour (earnings statement for period ending 01/18/2015 attached);
- b. [REDACTED]: \$9.50 per hour (earnings statement for period ending 03/01/2015 attached);
- c. [REDACTED]: \$9.50 per hour (earnings statement for period ending 03/01/2015 attached);

² Wage Determination No.: 2005-2103; Revision No.: 15, Date Of Revision: 12/22/2014. Available at <http://www.dol.gov/whd/regs/compliance/wage/SCADirV5/SCADirectVers5.pdf>.

³ <http://nationalzoo.si.edu/joinfonz/allaboutfonz>.

⁴ *And see*, 2009 DOL Ad. Rev. Bd. LEXIS 2, at n41.

- d. [REDACTED]: \$9.50 per hour (earnings statement for period ending 2/15/2015 attached).
5. Upon information and belief, approximately an additional four other groundskeepers are employed by FONZ at similar wage rates to those stated above, in violation of the SCA.
6. The groundskeeping workers at National Zoo employed by FONZ are, therefore, owed approximately \$7,425 in back wages plus an unknown amount in unpaid benefits, for each year of their full-time employment in these jobs. In total, the affected groundskeepers are owed at least \$178,000 for the three-year time period recoverable under the SCA.

III. Tour Bus Drivers for the National Park Service.

Good Jobs Nation has received evidence that around 35 bus drivers employed in Washington DC under contract between the National Park Service of the United States Department of Interior and Open Top Sightseeing are receiving wages and benefits well below their legal entitlement under the Service Contract Act.

1. The affected workers drive sightseeing buses that take visitors to various locations in and around Washington DC, including the monuments on the National Mall and the National Cemetery in Arlington, Virginia. Their proper occupation classification under the SCA is "Bus Driver," for which the applicable wage rate is \$20.85 per hour, plus paid holidays and fringe benefits.
2. The affected workers are employed by Open Top Sightseeing to perform services pursuant to Open Top's concessions contract with the National Park Service of the Department of the Interior.
3. This contract is subject to the Service Contract Act. Under 29 CFR 4.133, DOL exempts concessions contracts, "principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public." However, the rule further provides that "[w]here concession contracts ... include substantial requirements for services other than those stated, those services are not exempt." Id. Since these workers provide a service "other than those stated," that is, transportation and sightseeing services, the contract is covered by the SCA, and their work should be compensated accordingly.



4. Good Jobs Nation can provide evidence that the following workers have failed to receive their proper rate of pay under the SCA:
 - a. [REDACTED]: \$16.60 per hour (earnings statement for period ending 12/12/2014 attached);
 - b. [REDACTED]: \$16.60 per hour (earnings statement for period ending 01/18/2015 attached);
 - c. [REDACTED]: \$16.60 per hour (earnings statement for period ending 0/15/2015 attached).
 - d. [REDACTED]: \$18.20 per hour (earnings statement for period ending 3/01/2015 attached).

5. Upon information and belief, approximately an additional 32 Open Top Sightseeing bus drivers are paid similar rates in violation of their rights under the SCA.

6. The drivers employed by Open Top Sightseeing are, therefore, owed approximately \$8,840 in back wages plus an unknown amount in unpaid benefits, for each year of their full-time employment in these jobs. In total, the affected drivers are owed at least \$928,000 for the three-year time period recoverable under the SCA.

Respectfully,

/s/ George W. Faraday, Esq.
Counsel, Good Jobs Nation.