

29 C.F.R. § 4.11

Arm's length proceedings.

(a) *Statutory provision.* Under section 4(c) of the Act, the wages and fringe benefits provided in the predecessor contractor's collective bargaining agreement must be reached “as a result of arm's-length negotiations.” This provision precludes arrangements by parties to a collective bargaining agreement who, either separately or together, act with an intent to take advantage of the wage determination scheme provided for in sections 2(a) and 4(c) of the Act. See *Trinity Services, Inc. v. Marshall*, 593 F.2d 1250 (D.C. Cir. 1978). A finding as to whether a collective bargaining agreement or particular wages and fringe benefits therein are reached as a result of arm's-length negotiations may be made through investigation, hearing or otherwise pursuant to the Secretary's authority under section 4(a) of the Act.

(b) *Prerequisites for hearing.* (1) A request for a determination under this section may be made by a contracting agency or other person affected or interested, including contractors or prospective contractors and associations of contractors, representatives of employees, and interested Governmental agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Although no particular form is prescribed for submission of a request under this section, such request shall include the following information:

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