

Service Contract Act and Compliance Principles



The McNamara O'Hara SCA of 1965, what is it?



The 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.

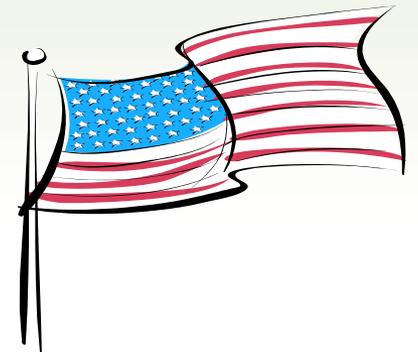
The DOL issues wage determinations on a contract-by-contract basis in response to specific requests from contracting agencies. These determinations are incorporated in the contract

What is the AbilityOne Program

- **The AbilityOne Program** creates jobs and training opportunities for people who are blind or who have other severe disabilities, empowering them to lead more productive and independent lives. Requiring Government agencies to purchase selected organizations employing such individuals.
- Currently, the AbilityOne Program provides employment opportunities for more than 40,000 people who are blind or have other severe disabilities by orchestrating Government purchases of products and services provided by nonprofit agencies
- In 1938, the Wagner-O'Day Act was passed under President Franklin D. Roosevelt to provide employment opportunities for people who are blind by allowing them to sell products to the Federal Government. In 1971 the Act was expanded by Senator Jacob K. Javits to include people with other significant disabilities, and to cover services as well as supplies. It became known as the Javits-Wagner-O'Day Act.
- The AbilityOne Program is subject to the SCA.

What industries are subject to the SCA?

Service Contract Act (SCA): (IT, janitorial, custodial, food service, admin, security, patrol services, grounds maintenance, engineering, commissary shelf stocking, base operation support services, phone operations, total facility maintenance (TFM), vehicle maintenance, carnival workers, US Mail Haulers, etc.



SCA Wage Determination



ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.59 per hour or \$143.60 per week or \$622.27 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 8 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

Health and 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 current health and welfare fringe on a SCA contract just increased from \$3.59/hour to \$3.71 per fringe paid hour (July 17th)

Providing H&W Benefits- Savings



The Employer has the sole discretion on these SCA funds

A Employer Choice:

- Put the health and welfare fringe in the paycheck and give it to the employee
- Use it to provide H&W 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:		\$3.71
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 a Indirect/Overhead rate of 35%.

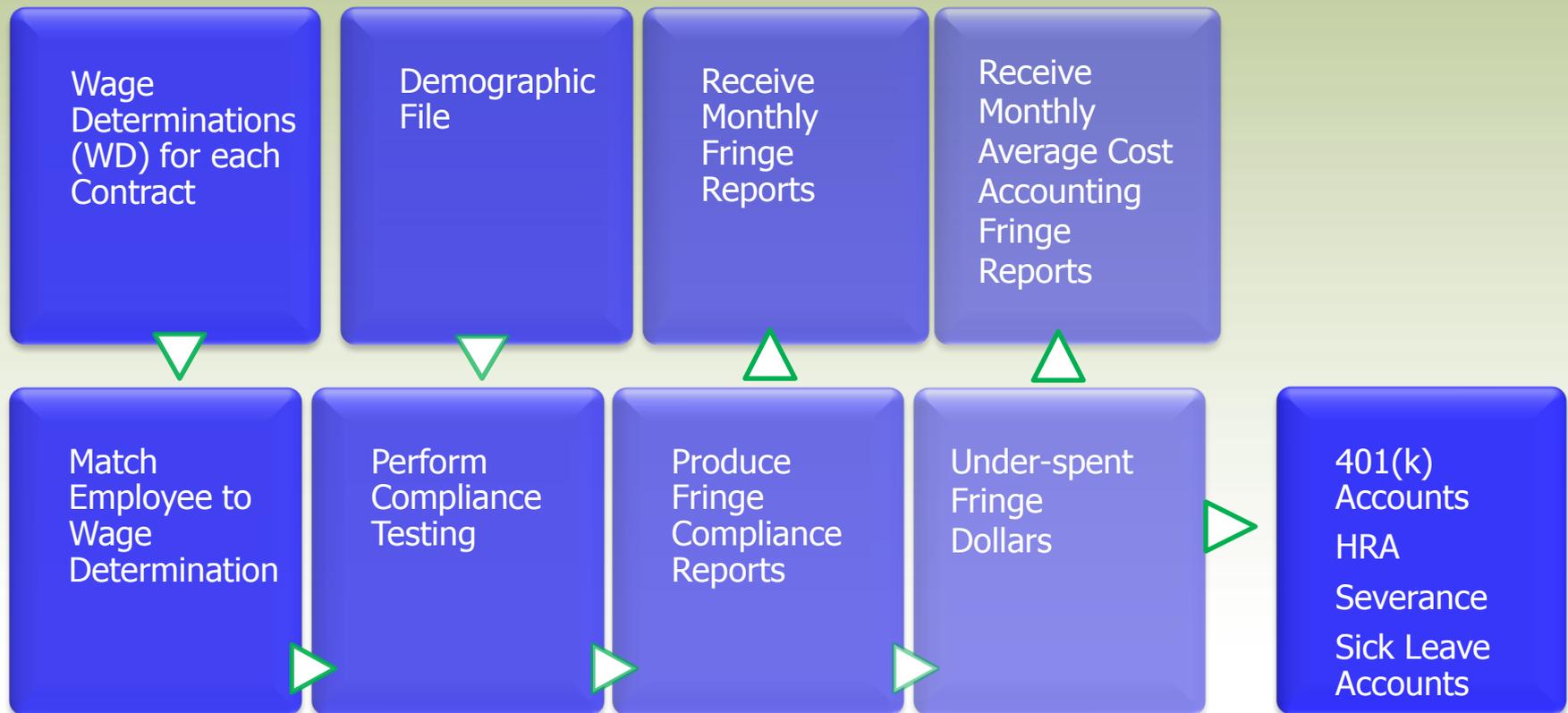
Providing Benefits and SCA Compliance



- Average Cost Accounting: Fringe dollars can be pooled for all employees working on contracts. Compliance can be determined based on the “average cost” of benefits. Only total productive hours are accounted for. Not all SCA employees must benefit from fringe.
- Individual Cost Accounting: For contracts requiring individual cost accounting, the fringe dollar amount will be allocated on an individual basis into the applicable benefit plan(s) for each contract to determine if the fringe obligation being met for each employee. All wage-paid hours are accounted for up to 40 hours per week and 2080 hours per year, for each contract. All SCA employees must benefit from fringe.

SCA Fringe Compliance Testing

Compliance practices and procedures



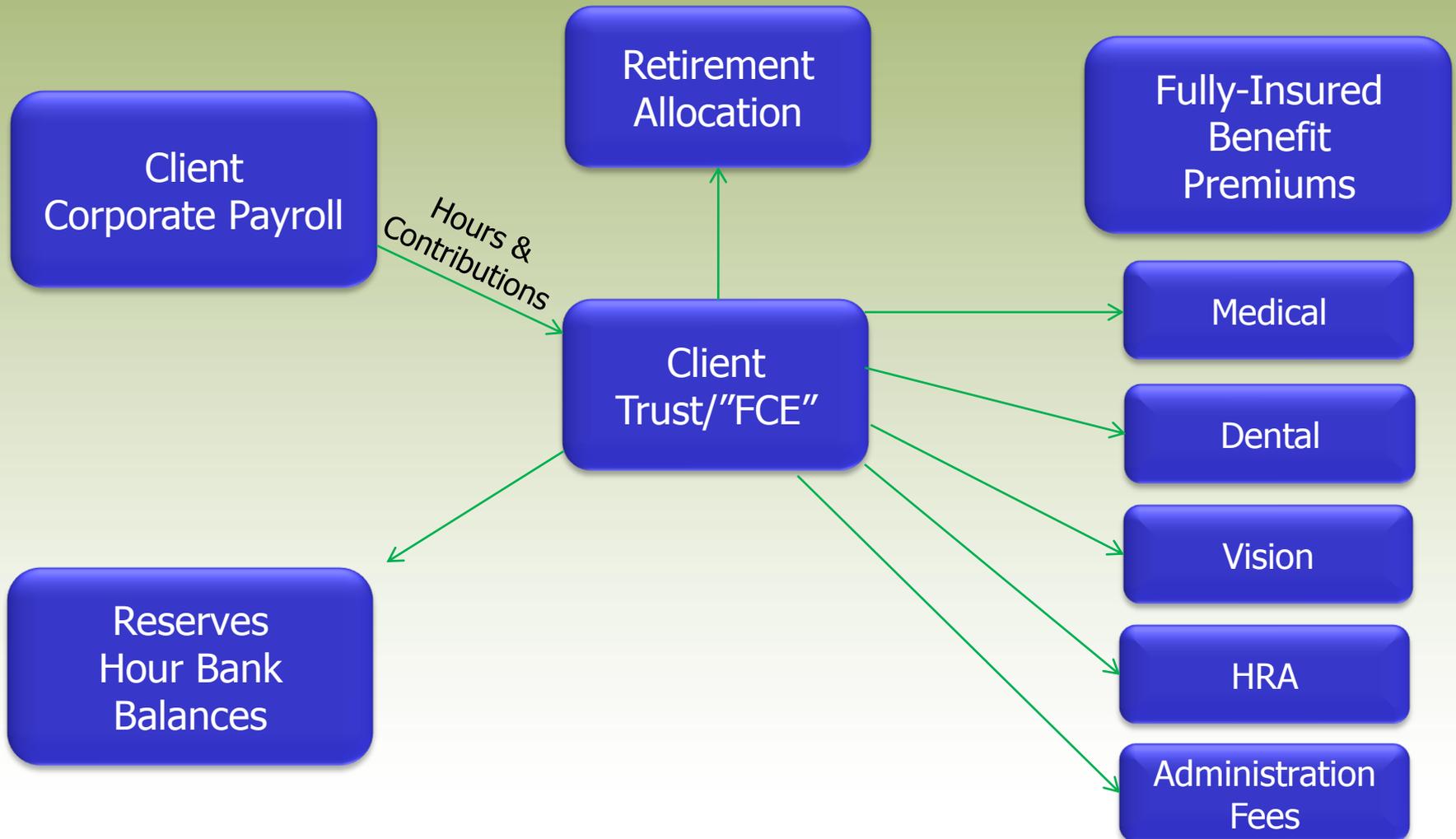
What happens if a contractor violates the SCA?



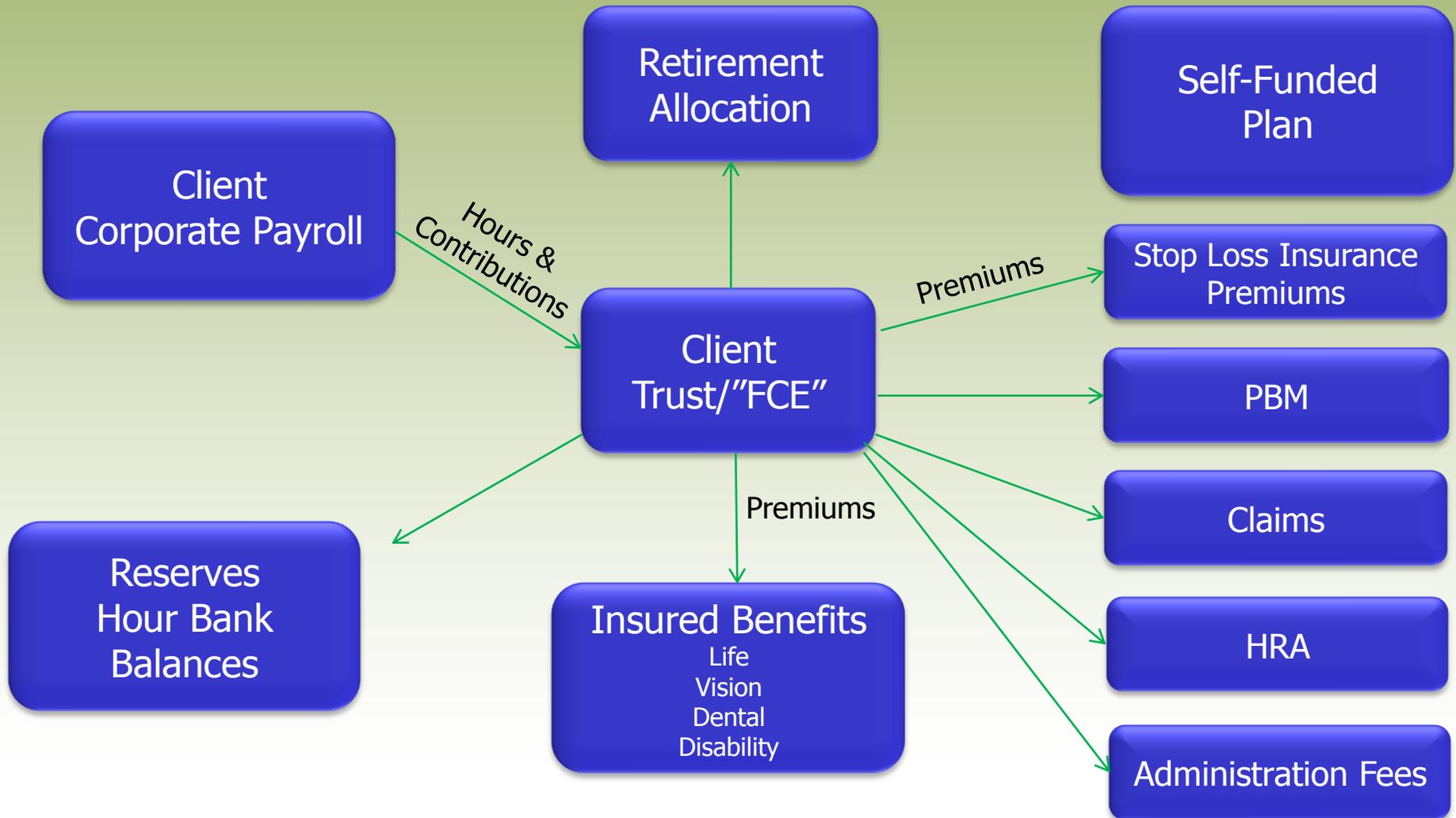
The Wage and Hour Division conducts investigations of contractors to ascertain compliance with the SCA

The SCA provides authority to withhold contract funds to reimburse underpaid employees, terminate the contract, hold the contractor liable for associated costs to the government, and debar from future government contracts for a period of three years any persons or firms who have violated the SCA.

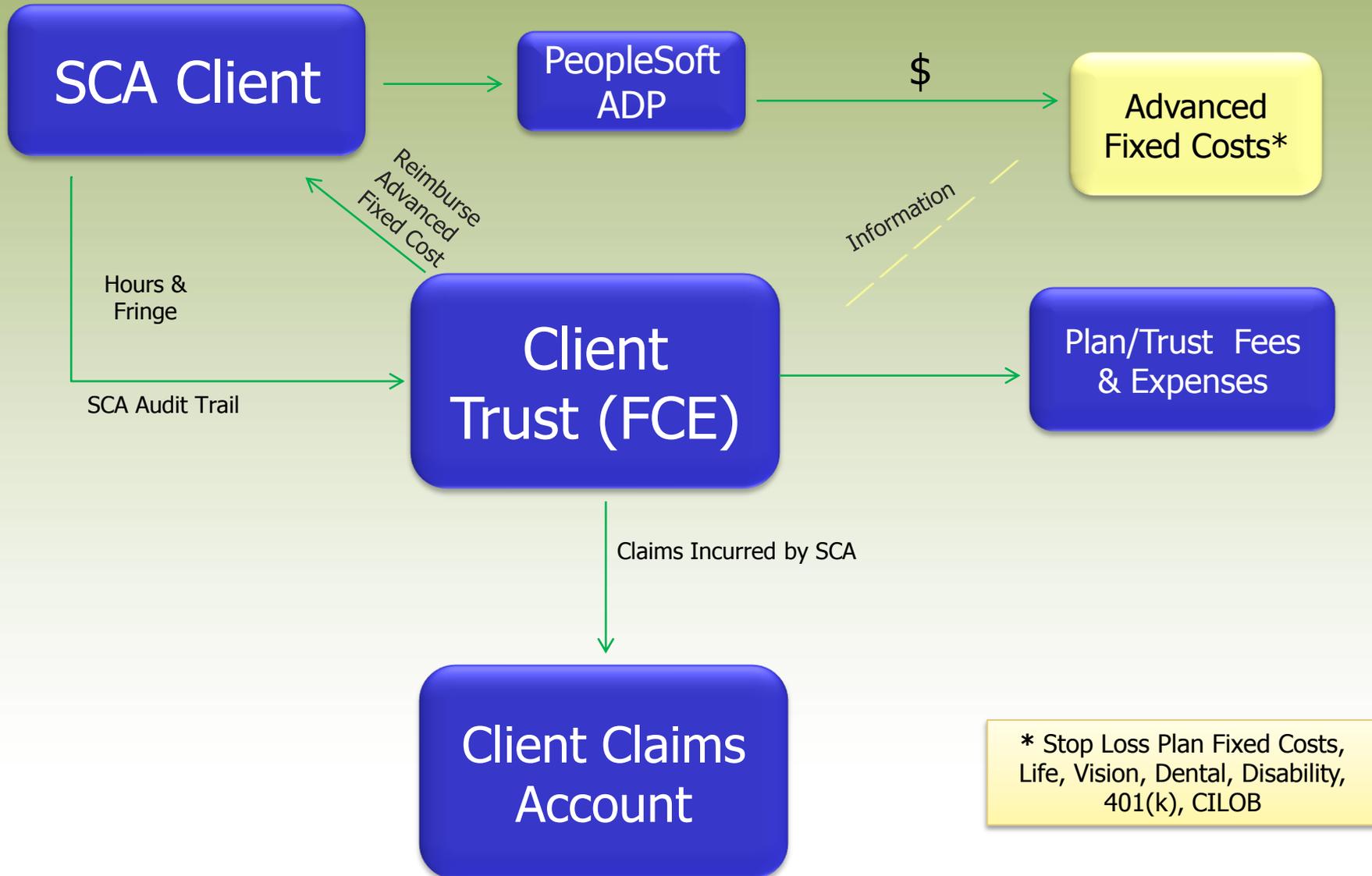
Fully-Insured Example



Self-Funding Example



SCA Self Funded Cash Flow Diagram



“Bona-Fide” Administration Solutions



- Medical
- Dental
- Vision
- EAP
- Health Reimbursement Account (HRA) with Debit Card
- Disability
- Retirement Plans
- Severance Plans

SCA and ACA Compliance Headaches

- SAR- Summary Annual Reports
- Annual audits (5500)
- SPD- Summary Plan Descriptions
- COBRA & FMLA Tracking
- Medicare Part D & CMS Filings
- HIPAA
- ACA Compliant Benefit Plans
- W-2 Reporting



U.S. Supreme Court Ruling

- ACA Compliance- Important to have a strategy in place
- ACA Compliant Benefit plans for employees working more than 30 hours/week
 - Employer must pay for these benefits
- Coverage for Children up to Age 26
- Reporting the value of health coverage on employee Forms W-2 (for the 2012 Forms W-2 to be sent in early 2013)

Immediate Takeaways

- The Federal Government in order to “level” the playing field provides contracts through
 - Mentor Protégé Programs (can participate in SCA bids)
- 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
- It is very important to be in compliance with the SCA and ACA

FCE Benefit Administrators, Inc.



Questions and Answers?



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