

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WASHINGTON, D.C. 20210



February 1, 1973

MEMORANDUM #111

TO: All Government Contracting Agencies of the Federal Government and the District of Columbia

SUBJECT: Amendments of Service Contract Act of 1965 - Section 2(a)(5) (Wage rates and fringe benefits that "would be paid" if service employees were direct hires)

Section 2(a)(5) of the amended Service Contract Act requires the contracting agency to include in the service contract; "A statement of the rates that would be paid by the Federal agency to the various classes of service employees if section 5341 of Title 5, United States Code were applicable to them." The amended Act requires the Secretary of Labor to give "due consideration" to such rates in making "the wage and fringe benefit determinations." The provisions of Department of Labor Regulations 29 CFR 4.6(j)(2) and 29 CFR 4.4(b)(2) were promulgated to give effect to the two statutory requirements.

At the general conference with the contracting agencies held on December 14, 1972, questions were raised on the appropriate method of deciding what wage rates and fringe benefits "would be paid." At that time it was suggested that the Department of Labor consider issuance of guidelines to put all agencies on the same basis to avoid waste of time. We have completed our study on this matter and have arrived at the conclusions stated below. The Department of Labor welcomes any suggestion or question an agency may have about the procedure outlined.

BASIC HOURLY RATE

With respect to the proper hourly wage rate to be shown on the contract "statement," the Department of Labor will accept for nonsupervisory employees whose wages, if Federally employed, would be paid pursuant to 5 United States Code 5341, the wage rate that would be paid to the particular class of employees pursuant to Step 2 of the applicable wage board pay schedule. Step 3 will be acceptable for

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supervisory employees. This wage board pay information is usually available at the personnel office of each contracting agency. It will, of course, be necessary for the contracting agency to compare particular service contract jobs to wage board jobs.

#### FRINGE BENEFITS

The Bureau of Labor Statistics conducts (every two years) a study of fringe benefits paid in private industry as compared to those paid to employees of the Federal Government. It was decided to use the applicable portions of this Bureau of Labor Statistics publication as the basis for reflecting the cost to the Government of paying various health and insurance program benefits. These health and insurance program benefits, as set out in the latest Bureau of Labor Statistics report, which include life, accident and health insurance, and sick leave programs, amounted to 5.1 percent of the basic hourly rate. This figure will be acceptable to the Department of Labor for purposes of showing in the contract "statement" the cost to the Government of these fringe benefits that "would be paid" for service employees who would be paid pursuant to 5 United States Code 5341 if hired directly by the contracting agency. This should be expressed in the contract "statement" as: "Life, accident and health insurance, and sick leave programs, 5.1 percent of basic hourly rate."

A new Bureau of Labor Statistics survey comparing private and Federal fringe benefits payments is now being made. It is expected that this will be published about January 1, 1974. Any change in the percentage (now 5.1 percent of the basic hourly rate) paid by the Government for various health and insurance programs will be reflected in a further memorandum to all contracting agencies.

With respect to holiday fringe benefits, those holidays provided by law should be shown in the contract "statement" as:

1. New Year's Day
2. Washington's Birthday
3. Memorial Day
4. Independence Day
5. Labor Day
6. Columbus Day
7. Veterans Day
8. Thanksgiving Day
9. Christmas Day

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Vacations or paid leave provided by law should be shown in the contract "statement" as:

1. 2 hours of annual leave each week for an employee with less than three years of service.
2. 3 hours of annual leave each week for an employee with three but less than fifteen years of service.
3. 4 hours of annual leave each week for an employee with fifteen or more years of service.

By law the Federal Government is required to contribute 7 percent of a Federal employee's base pay for retirement. Accordingly, it will suffice for the contract "statement" to show only; "Retirement, 7 percent of basic hourly rate."

#### CONTRACT STATEMENT

It would thus be appropriate to show in the contract "statement" five separate pay components for those service employees whose wages, if Federally employed, would be paid as provided in 5 United States Code 5341:

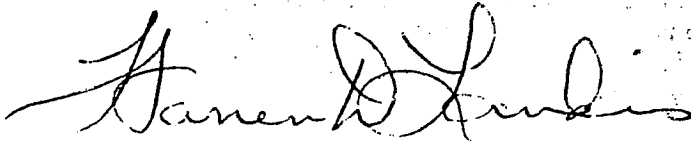
1. The basic hourly rate that would be paid to Federal wage board employees by the contracting agency.
2. The percentage (currently 5.1 percent) of the basic hourly rate that would be paid for Federal wage board employees by the contracting agency to cover various health and insurance programs.
3. The paid holidays that would be given by law to Federal wage board employees by the contracting agency.
4. The amount of paid vacation that would be given by law to Federal wage board employees.
5. The percentage (currently 7 percent by law) of the basic hourly rate that would be contributed for Federal wage board employees by the contracting agency for retirement.

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STANDARD FORM 98

In submitting Standard Form 98 to the Department of Labor, only the basic hourly wage rate that would be paid to comparable wage board employees need be shown. It is unnecessary to include fringe benefits as the Department of Labor will use the figures set out herein for purposes of "due consideration." This in no way affects the requirement to include such fringe benefits as part of the contract "statement."

A revised Standard Form 98 is being prepared which will take into account the recent amendments to the Service Contract Act and simplify submission. This will be available in about 90 days.



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