

MEMORANDUM
DEPARTMENT OF LABOR
AND WORKFORCE DEVELOPMENT

STATE OF ALASKA
Labor Standards & Safety Division

TO: Wage & Hour Administration
Anchorage
Juneau
Fairbanks

DATE: February 8, 2008

FILE: WHPL # 204

PHONE: (907) 465-4855

FROM: Grey Mitchell
Director



SUBJECT: T36 Basic Hourly Rate and
Fringe Benefit Rate

This policy is designed to clarify the acceptable methods for a contractor to satisfy the basic hourly rate and fringe benefit rate obligations under Title 36.

Past practices have required contractors to pay not less than the minimum established basic hourly rate, even if the contractor was paying an additional amount in fringe benefits sufficient to meet or exceed the total prevailing wage package. Upon conferring with senior Wage and Hour staff, the Commissioner and Larry McKinstry (Asst. AG) and considering PCOL's #14, #109 and #187, WHPL #198, AS 36.05.010, AS 36.95.010(7), 8 AAC 30.900(16) and federal interpretations established in 29 CFR § 5.31 and the Davis Bacon and Related Acts field operations handbook ("DBRA") 15f06, I have determined that the past practice and policy needs revision to provide more consistency between state and federal interpretations.

To reduce conflict and provide a more consistent and enforceable approach, Wage and Hour staff shall apply the standards outlined in this policy and DBRA 15f06 to enforce the payment of the minimum prevailing rate of pay as identified in the applicable Laborer's and Mechanic's Minimum Rates of Pay pamphlet or otherwise found prevailing by the Commissioner.

It is important to note that overtime pay must be calculated based on the minimum prevailing basic hourly rate. In cases where a contractor simply takes a portion of the basic hourly rate and moves that exact amount into fringe benefits, an overtime liability exists for overtime hours worked. If the Commissioner established basic hourly rate ("BHR") is \$30 and the fringe hourly rate ("FHR") totals \$15 and the contractor is paying a BHR of \$28 and a FHR of \$17, the total package rate ("TPR") of \$45 would be met for all straight time hours. However, the minimum overtime prevailing wage obligation must be calculated based on the established prevailing BHR of \$30.

To determine the amount due for a 50 hour workweek at the rates described in the preceding paragraph, the following calculations should be used:

Minimum Prevailing Wages Due

40 ST hours @ \$30 BHR	=	\$1,200
50 FB hours @ \$15 FHR	=	\$ 750
10 OT hours @ \$45 BHR	=	<u>\$ 450</u>
Total Minimum Prevailing Rate	=	<u>\$2,400</u>

Amount Paid

40 ST hours @ \$28 BHR	=	\$1,120
50 FB hours @ \$17 FHR	=	\$ 850
10 OT hours @ \$42	=	<u>\$ 420</u>
Total Amount Paid	=	<u>\$2,390</u>

Amount Earned

40 ST hours @ \$28 BHR	=	\$1,120
50 FB hours @ \$17 FHR	=	\$ 850
10 OT hours @ \$45*	=	<u>\$ 450</u>
Total Amount Earned	=	<u>\$2,420</u>
*($\$30$ prevailing BHR X 1.5)		

Amount Due In Unpaid Overtime

Amount Earned	=	\$2,420
Less, Amount Paid	=	<u>\$2,390</u>
Amount Due	=	<u>\$ 30</u>

This policy may necessitate that contractors who pay a lower BHR provide an explanation of the fringe benefit amounts paid on behalf of an employee. This could be accomplished through a cover letter with the first certified payroll for a project or in the remarks section of the certified payroll form.

Enforcement actions for overtime violations resulting from a contractors payment of a higher fringe benefit rate and lower basic hourly rate to meet the total minimum prevailing wage package shall be complaint based and require a wage claim assignment under AS 23.05.220 from an affected employee.