CHAPTER 6

WAGES AND PAYROLLS

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Section 6.1

GENERAL INFORMATION

6.1.1 Purpose

Contractors that perform work on Davis-Bacon Act (DBA) covered projects must pay wages in accordance with those predetermined by the Secretary of the United States Department of Labor (USDOL). This chapter of the workbook offers guidance and information surrounding the requirements of payment of predetermined wages, record keeping and overtime requirements. Contracting agencies must monitor and keep records of payments to employees as required by law.

Additionally, this chapter provides a uniform process for reviewing and processing Contractor payroll submittals, conducting labor interviews, issuing violations and adding wage classifications to the contract. Included is information concerning other labor laws and regulations which may be applicable.

6.1.2 Scope

Contract wage requirements are included in every federally funded FDOT construction contract award of $2,000 or more. These requirements apply to the prime and every level (tier) of subcontracts, regardless of the amount of the subcontract.

The “government contract acts” (Davis-Bacon Act, the Copeland Act and the Contract Work Hours and Safety Standards Act) regulate payment of wages, record keeping and reporting, and overtime pay respectively on these contacts. Compliance with these “government contract acts” is enforced on a day-to-day basis by the FDOT, as the contracting agency.

FDOT contracts which require compliance with the “government contract acts” include Special Provision Subarticle 7-1.1 which invokes the FHWA 1273, “Required Contract Provisions - Federal Aid Construction Contracts.” Also included in the Special Provisions of these Federal Aid contracts is Subarticle 7-16, “Wage Rate for Federal Aid Projects” which specifies the wage table(s) applicable to the specific contract. All FDOT contracts include Standard Specification 7-1, which requires adherence to all applicable federal, state, and local laws.

Guidance for FDOT’s in-house procedures for monitoring this area of compliance is contained in the latest version of the Construction Project Administration Manual (CPAM).

6.1.3 State and Federal Minimum Wage

All FDOT projects are governed by the Fair Labor Standards Act (FLSA) which requires a minimum wage, overtime pay, and child labor standards be met. FLSA is enforced directly by the USDOL.

The State of Florida has a minimum wage law for hours worked in Florida. This rate is reviewed annually for adjustment with a new rate typically in effect January 1 of each year.

State and federal minimum wages are summarized in Table 6.1.3.1.

Table 6.1.3.1
State of Florida and Federal Minimum Wages

Florida Minimum Wage		Federal Minimum Wage	
Effective Beginning:	**Hourly minimum**	**Effective Beginning**	**Hourly Minimum**
January 1, 2010	$7.25		
		July 24, 2009	$7.25
January 1, 2009	$7.21		
		July 24, 2008	$6.55
January 1, 2008	$ 6.79		
		July 24, 2007	$5.85
January 1, 2007	$ 6.67		

Florida's minimum wage law applies to workers on all FDOT construction projects-federally funded and state (Non-FAP) funded.

On federal funded construction projects, where the Florida minimum wage is higher than a required minimum rate on a wage determination, the Florida minimum must be paid.

Compliance personnel on FDOT federally funded construction projects will not issue a Notification of Payroll Violation (form 700-010-59) in the event workers are paid less than Florida's minimum. Compliance personnel will, however, issue letters to the contractor advising of the infraction which is a violation of contract Section 7, Legal Requirements and Responsibility to the Public, Sub article 7-1, Laws to Be Observed, , 7-1,1, General: "Become familiar with and comply with all Federal, State, County and City Laws, etc".

6.1.4 Requirements

The following elements comprise the contractor's responsibility involving wage compliance for federal aid contracts:

In addition to the following, the prime contractor, as outlined in 6.3 Requesting Additional Wage Classifications, must request approval of classifications and wage rates for classifications of work not covered by the applicable wage determination(s).

Reporting and Record keeping – Contractors must submit weekly certified payrolls and statements of compliance as required. Payrolls and basic records relating thereto shall be maintained by the Contractor/subcontractor during the course of the work and preserved for three years following the project's completion date.

Overtime payments – All overtime hours (all those over 40 in a workweek) shall be paid at rates no less than 1.5 times the employee's basic rate of pay. Contractors are required to pay "laborers or mechanics" overtime for any hours over 40 in a work week.

Deductions – Pursuant to the Copeland Act, any deduction from employee pay must meet specified requirements and the contractor/subcontractor must request and receive USDOL approval for payroll deductions unless such deductions are specifically listed as not needing such approval (see Table 6.5.3.1 for listing). Deductions from employee pay must conform to the requirements of the Copeland Act, including documented approval where required.

Section 6.2

Wage Determinations

6.2.1 Purpose

General wage determinations (also known as wage tables, wage decisions, or WDs) are the document(s), which contain predetermined wages set by USDOL. They may or may not contain fringe benefits in addition to the basic rates of pay for individual classifications. Once assigned to a contract, the WD(s) will not change for the life of the contract, unless major changes happen to the scope of the contract work. The most current version (modification) of the wage table(s) (specified in the contract special provisions) is "locked in" at a date 10 days before the letting date. This is known as the "10 day rule". For example, if a wage table is modified by USDOL with a publication date that is 10 calendar days before the letting date for the project, then that is the correct version to use. If it is modified with a publication date 9 calendar days or less, before the letting, then the previous version would be used.

6.2.2 Types of Wage Determinations

Wage determinations will carry a title, which identifies the state, year and number of the wage determination.

> For example:
> "General Wage Decision Number FL020001". FL – state, 02 – year and 0001 is the number signifying the area the table is effective and the type of construction that it covers. In this case 0001 is Building Construction for Dade County.

There are four (4) major types of construction addressed on these WDs. They are:

> **Highway** – this is used for most of FDOT's projects. It includes the construction of roads, small bridges, bridges not over commercially navigable waterways, taxiways in airports, parking lots which are not incidental to building construction, and storm sewers/drainage work which are incidental to road construction.
>
> **Heavy** – this category is one of a "catch all" nature. It includes those types which are not covered by the other three categories. FDOT projects, which contain these, are mostly large marine bridges over commercially navigable waterways and sewage treatment plants for rest areas. Other examples of this type of construction are dams, powerhouses, railroad construction, tunnels and others.

Building – covers most any building structure except those that are residential in nature that are 4 stories or less.

Residential – includes construction of all single family or apartment buildings designed which are not over 4 stories high.

Note that in the above definitions, the examples given for the types of construction are only some of the examples given by United States Department of Labor ('USDOL'). Sometimes when other types of construction are encountered, a decision is required by USDOL to determine the proper wage table(s) for the project.

Questions pertaining to the applicability of any wage determination should be directed to the District Contract Compliance Manager (DCCM) and the Prevailing Wage Rate Coordinator (PWRC). If necessary the PWRC will contact USDOL for guidance.

6.2.3 Fringe Benefits Required in Wage Determination

A wage determination (WD) may contain two separate requirements for any individual classification: rates and fringes.

Rates refer to the minimum monetary wage and fringes refer to minimum payments for a bona fringe benefit.

Contractors may fulfill the total wage requirement for a classification by paying cash and bona fide fringe benefits in a variety of combinations. Refer to Workbook Section 6.8 for information on Fringe Benefits.

6.2.4 Posting Requirements

Requirements for the contractor include the following job site postings: (a) the correct WD(s) (b) classifications added by the request procedure and (c) the Important Wage Rate Information poster. Wage determinations are obtained from the FDOT Construction Office website and the Important poster is obtained from the FDOT Equal Opportunity Office website (see Section 1.4).

Section 6.3

Requesting Additional Wage Classifications

6.3.1 Purpose

Requesting an additional wage classification is the process which allows a classification to be added to a wage determination (wage table) on a project-by-project basis. USDOL refers to this request as a 'conformance'.

When a classification is approved it is only valid for the particular project on which it was requested. Blanket coverage to other projects is not allowed by the present regulations.

Requesting additional wage classifications is a process which is required when the wage table(s) assigned to a project does not include classifications needed to perform the project's work.

6.3.2 Requirements and Process

It is the prime contractor's responsibility to submit additional classification requests for their firm and all subcontractors on the project. Form No. 700-010-07, Additional Classification- Request Form is provided for this purpose and it is available on the FDOT Forms and Procedures website (see Section 1.4). Contractors may recreate this form to expedite filling out required information and making it compatible to email. The file may be MS Excel, MS Word, or an Adobe PDF. However, all information and general appearance of the form must be similar.

The prime contractor should scan, email, fax, or mail the form to the Prevailing Wage Rate Coordinator (PWRC), Susan Robeson, with a copy to the project Resident Compliance Specialist. The PWRC evaluates the request and issues a letter to the contractor with a copy to the DCCM advising whether or not the State Construction Office agrees with the submitted request. If appropriate, the request, the PWRC's letter and the WD(s) for the project are submitted to USDOL for a decision. It is important that all information on the form is clear and legible and that the contact name, e-mail address and phone number are correct in the event that questions arise. E-mail submission is preferred as that method creates a documented record and allows rapid response for questions and clarifications.

Upon receiving a response from the USDOL, the PWRC sends a letter noting the USDOL action to the contractor and the DCCM.
The DCCM is responsible for forwarding a copy of this transmittal to the project's Resident Compliance Specialist.

It is the contractor's responsibility to post any added wage classifications and rates on the project. The Additional Federal Wage Rate Decisions (Form No. 700-010-67) is

provided to make posting this information on the project bulletin board easier. The final approval letter issued by the PWRC (and the copy of the USDOL response letter) for each classification is sent to the contractor and must be kept by the contractor in his/her project files for verification of those posted rates.

Compliance personnel may track the progress of a request in the Wage Rate System, which is presently a part of CARS, Option 5. This is an internal FDOT system. Access to this system must be requested from the State Construction Office System Support Section. RCS access should be coordinated through the District Contract Compliance Office.

6.3.3 Wage Payment while Awaiting Additional Classification Decision

Contractors are to make every good faith effort to submit and obtain additional classification decisions prior to the time when such workers will appear on the project.

If an additional wage classification has been requested, but a response has not been received, the contractor may include the additional classification on the certified payroll and pay at least the minimum amount indicated in their request documentation.

Once the wage decision of the U.S. Department of Labor has been received, the contractor must retroactively make any pay adjustments if the rates approved are greater than the rates paid to employees in that classification. In the event the response indicates that the work is included in that of an existing classification, the contractor is to begin immediately using the indicated classification and must retroactively pay any difference in rate resulting from this decision.

6.3.4 Directions for Completing the Additional Classification Request Form (Form No. 700-010-07)

General: This form is completed by the prime contractor to request a wage rate for classifications of work not listed on the wage table(s) assigned to a project. The classifications requested include those of the prime and all subcontractors. Up to three (3) classifications can be requested on one form if they relate to the same contract/project and the same general decision.

Prime Contractor Information: The name and address of the prime contractor should be included along with a phone number and e-mail address. This will be the address to which all correspondence relating to the request will be mailed.

Date: This should be the date on which the request is submitted. The address shown below the date is the mailing address if the U.S. mail must be used for submission.

Project Information: The Financial Project Number, Federal Aid Project Number and Contract Number are important to properly correlate the request with FDOT's internal tracking systems. The Letting Date and Award Date are used to assure the proper assignment of the appropriate wage table or General Decision. The County is also used in the assignment of the wage table. The General Decision Number and Publication Date are the specific identifiers of the wage table to be used (the General Decision Number is shown in Special Provision 7-16 of the contract). All of the project information is shown in the contract document. Failure to show correct information may result in the form being returned for correction.

Classification Details: The form allows for the submission of up to three classifications, as long as they fall under the same contract and General Decision Number (some contracts include more than one General Decision Number – requests under more than one General Decision Number must be submitted on separate forms). The Classification Title and Classification Description should be shown in the terminology generally used within the industry. If the classification is similar to an existing classification, the description should include information that distinguishes the requested classification from the existing one. The suggested hourly rate of pay is the rate the contractor proposes to establish as the minimum for the requested classification. This rate must be consistent with the wage rates shown in the assigned General Decision Number; otherwise, the FDOT will recommend a higher rate when the request is forwarded to USDOL.

Signature Block: The prime contractor's representative should sign here and include the printed name. The signature need not be the original signature (as this form is normally submitted electronically). If questions arise, this will be the person to whom the questions will be directed. This will also be the name that appears on correspondence addressed to the prime contractor listed at the top of the form.

Section 6.4

Employee Labor/EEO Interviews

6.4.1 Purpose

To fulfill the contracting agency's (FDOT) requirement to monitor payments made on federal aid construction projects, the following procedures have been developed for interviewing employees for proper classification, wage payment, and equal employment opportunity purposes.

6.4.2 Overview

The Employee Interview Report - Labor/EEO Compliance (Form No. 700-010-63) is provided to document interview results of a cross section of employees based on the dollar amount of the contract. Interviews are conducted monthly on a random basis and interviews are sought on a wide range of laborers and mechanics for labor and EEO compliance criteria. "Laborers and mechanics" is a general term used to mean all construction employees on the project performing labor or craft work as opposed to managerial or technical work. Note: For EEO purposes, other personnel such as foremen working on the project should be interviewed.

6.4.3 Monthly Interview Requirements

Representatives of FDOT and other agencies may interview employees to affirm compliance with requirements. Contractors and subcontractors are required to ensure that employees are available for interviews on the project during work hours.

The Resident Compliance Specialist ensures that the required minimum number of Labor/EEO interviews, based on the contract's dollar amount, is completed each month on a cross-section of active contractors and a diversity of workers. Table 6.4.3 summarizes the minimum number of monthly interviews. Additional interviews above the minimum may be conducted when deemed necessary.

Data collected in interviews is compared to certified payroll records, EEO data and other compliance-related information to evaluate compliance. The Resident Compliance Specialist takes action to resolve discrepancies identified during interviews. Actions which may be taken include, but are not limited to include issuance of payroll violations, notices of noncompliance, obtaining copies of payroll checks, and copies of EEO-related records.

Table 6.4.3
Minimum Number of Monthly Employee Labor/EEO Interviews

Original Contract Amount	Required Minimum Number of Interviews per Month
Under $ 1,000,000	2
Over $1,000,000 - $3,000,000	3
Over $3,000,000 - $5,000,000	4
Over $5,000,000 - $10,000,000	5
Over $10,000,000 - $15,000,000	6
Over $15,000,000 - $20,000,000	7
Over $20,000,000	8

Section 6.5

Payrolls

6.5.1 Purpose

On federal aid construction projects, certified payrolls are necessary to meet the requirements of the Copeland Act. The certified payrolls serve as a means of ensuring and documenting that workers are paid according to the wage decisions (WD) assigned to the contract and that deductions from earnings are in accordance with the Copeland Act.

6.5.2 Payroll Reporting Requirements

Each contractor and subcontractor shall furnish to the project's Resident Compliance Specialist an original certified payroll for wages paid each of its employees assigned to the project during the preceding weekly payroll period. The prime contractor is responsible for the submission of original certified payrolls by all subcontractors. The certified payroll includes the Statement of Compliance and the payroll records.

The payroll includes wages paid to "Laborers and Mechanics" (i.e., workers whose duties are manual or physical in nature including those who use tools or perform the work of a trade), apprentices, trainees, watchmen and guards. Wages paid to workers who perform no manual or physical work on the construction project and whose primary duties are administrative, executive or clerical, are not included on certified payroll records. Architects, engineers, timekeepers, administrative staff, surveyors, quality assurance staff, and inspectors are excluded on project certified payroll records.

Payrolls are due for every week in which any contract work is performed. The Resident Compliance Specialist is to receive each certified payroll within (7) seven days of the regular payment date of the payroll.

The payroll record of employees must include the following: employee's full name, work classification(s),hourly rate(s) of wages paid, daily and weekly number of hours worked, gross wages on the project (and those of all projects), the amount and purpose of each deduction(s) made, and actual net wages paid. FDOT additionally requires the race and sex on payroll records. See Table 6.5.2 for Race and Sex Abbreviations

On contracts let on or after January 19, 2009, the employee's address should not be reported and a 4 digit employee identifier may be recorded instead of their nine digit social security number.

Contractors may make corrections to their payroll records by striking-through and initialing each correction; white-out is not acceptable.

Table 6.5.2
Race and Sex Abbreviations

Sex & Race Categories	Phrases for FDOT Reporting Purposes
Male	Male M
Female	Female F Fem
White (Not of Hispanic Origin)	White W Wh C Ca
Black (Not of Hispanic Origin)	Black B Bl
Hispanic	Hispanic H Hisp
American Indian or Alaskan Native	American Indian or Alaskan Native, AI-AN Amer Ind -Ala Nat
Asian	Asian As
Native Hawaiian or Other Pacific Islander	Native Hawaiian or Other Pacific Islander Nat Hi/PI HI/PI HI-PI
Two or More Races(not of Hispanic origin)	Two or More Races Two/More 2+

6.5.3 Deductions

The primary purpose of FDOT's review of payroll deductions made for employees on federal construction projects is to ensure that there is no violation of the Copeland "Anti-Kickback" Act. The Copeland "Anti-Kickback" Act prohibits federal contractors or subcontractors engaged in construction from inducing an employee to give up any part of the compensation to which he or she is entitled to due to their employment and requires such contractors and subcontractors to submit weekly statements of compliance. Contractors are to maintain records documenting deductions and the employee's consent or acknowledgment of deductions. Payrolls are required to show deductions in sufficient detail that allows compliance personnel to evaluate whether the deduction is subject to USDOL approval.

Table 6.5.3.1 summarizes, from the Copeland Act, deductions which are generally allowed without application to, or permission from, the U.S Department of Labor.

Contractors are required to request U.S. Department of Labor permission before taking any deduction which does not fall within these parameters or which may questionably fall within these parameters.

Table 6.5.3.2 summarizes, from the Copeland Act, the four criteria which the US Dept. of Labor considers in granting contractor permission for other deductions. All four criteria must be satisfied for the granting of permission.

Generally administration fees, interest, or any profit taken on deductions is not allowed by the employer. Employee loans through a bona fide third party (such as a credit union, profit sharing trust fund, etc) may include interest and fees charged by that third party. In short, the employer may not benefit financially from the loan of money to an employee nor may they impose an administrative fee. Court ordered garnishments including a minimal processing fee payable by the employee and/or employer are allowed.

Deductions for personal use of cell phones and use of company vehicles require the permission of USDOL and must meet the criteria stated in Table 6-5-3-2. Contractors requesting USDOL permission for such deductions should provide additional information to address their compliance with the requirements.

Collective bargaining agreements which include deductions for dues or an identified fringe benefit do not require USDOL approval unless the purpose of a deduction is not identified or the deduction is for a 'union working assessment'.

Child support or other court mandated deductions may allow the contractor to deduct an administrative fee, but only if specified in the order. The following is general guidance on some common deductions:

> Uniform Rental Deductions: These deductions must be approved by the Department of Labor. A copy of the deduction approval letter shall be sent to the Prevailing Wage Rate Coordinator for input into the BIZTRAK system.
>
> Garnishment: A court ordered garnishment order shall be in the contractor's payroll files and be made available to the Dept. upon request.
>
> Loans/Pay Advances: Any loan or pay advance to employees by the contractor/subcontractor requires a signed authorization by the employee for the deductions. A new deduction requires a separate authorization. USDOL approval is not required.

Table 6.5.3.1 Deductions Generally Allowed without Contractor Application to or Permission from the US Department of Labor	
A	Federal, State income withholding tax, social security taxes
B	Amounts required by court order such as child support payments
C	Repayment , with out discount or interest, of employee advances or loans
D	Contributions to funds for medical or life insurance, retirement funds or pensions
E	Purchase of US savings bonds
F	Deductions for charitable organizations such as Red Cross, United Way
G	Automatic payroll deposits to a credit union
H	Union initiation fees and membership dues
I	Purchase of safety equipment of nominal value when such equipment is not required by law to be furnished by the employer
J	Reasonable cost of board, lodging or other facilities, when such expenses meets the specific requirements of the Fair Labor Standards Act, Part 531 and special records are kept
K	Transportation to and from the place of employment

Table 6.5.3.2 Four Criteria Required by US Dept. of Labor in Granting Permission for Other Deductions (Satisfaction of all 4 Criteria is Required)	
1	The contractor, subcontractor or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend or otherwise, and;
2	The deduction is not otherwise prohibited by law, and;
3	The deduction is either:
	A Voluntarily consented to by the employee and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining employment or its continuance –or-
	B Provided for in a bona fide collective bargaining agreement between the contractor and the representatives of its employees, and;
4	The deduction serves the convenience and interest of the employee

6.5.4 Requesting US Dept of Labor Permission for Deductions

Contractors are responsible for requesting U.S. Department of Labor permission for deductions which do not fall within the parameters of those deductions generally allowed without USDOL permission (see Table 6.5.3.1.) This permission must be obtained prior to taking the deduction.

Permission is generally granted for a period of one (1) year. Retroactive permission is occasionally granted and it is documented accordingly in the USDOL approval.

Submit signed deduction permission requests on company letterhead and include a copy of any previous approval granted for this deduction. Address the request to**:**

U.S. Dept. of Labor, Employment Standards Administration, Wage & Hour Division
Office of Enforcement Policy - Rm. # S3006
200Constitution Avenue, N.W.,
Washington, D.C. 20210,
Attn: Mr. Timothy J. Helm, Government Contracts Team

The contractor's proposed deductions should comply with all of the criteria stated in Table 6.5.3.2 and the letter should specifically state that their request:

> "Complies with the provisions as set forth in Department of Labor Regulations, 29 CFR Part 3.6. These requirements are: (1) the contractor or any affiliated person does not make a profit or benefit directly or indirectly from the deduction, (2) the deduction is not otherwise prohibited by law, (3) the deduction is voluntarily consented to by the employee in writing and such consent is not a condition of employment or the deduction is provided for in a bona fide collective bargaining agreement, and (4) the deduction serves the convenience and interest of the employee."

USDOL tries to respond to these requests within 30 days.

6.5.5 Overtime

Overtime (OT) is the payment of 1.5 times the basic rate of pay for any hours worked in a workweek over 40. In addition to OT requirements for DBA covered employees; there is also a requirement for OT pay for night watchmen and guards.

Payment of overtime is required for covered employees on federally funded projects over $100,000.00 by the Contract Work Hours and Safety Standards Act. Those federally funded projects under $100,000.00, as well as state funded projects, have overtime requirements for covered employees under the Fair Labor Standards Act.

Overtime payments are based on time actually worked (including break periods but not lunch) and cannot include holiday, vacation or other time paid but not worked.

6.5.6 Classifications

The payroll record is to reflect the employee's classification of work as listed on the wage determination (WD) or on the additional wage determination.

The payroll record should state the employee's classification title as listed on the wage decision. If classifications are abbreviated on the payroll, and the relationship to the titles on the wage decision is ambiguous, the contractor may be required to submit a letter delineating the cross walk between abbreviations and the wage decision classification titles.

Semi skilled is an EEO category which includes several individual classifications; it is not a job classification. Refer to Table 3.4.5 for specific semi-skilled job classifications which must be shown on the payroll.

The payroll record of a person working as a welder is to include the designation of the operation in which welding is incidental (example: Welder-reinforcing iron worker)

Enrollees in the FDOT On-the-Job Training program (See Chapter 5: On–the-Job Training) may be paid at the unskilled laborer rate stated in the wage determination for training hours. If the trainee is not paid at least the minimum of the classification, "trainee" must be added to classification title on the payroll (note that this may only be done when the individual is properly enrolled in the OJT program).

6.5.7 Work in More than One Classification

When an employee's work on a project includes more than one classification during a payroll period, the contractor has two alternatives for wage and payroll compliance:

Note: In the following examples, only applicable portions of the payroll record are shown; the examples are not complete payroll records.

A. Hourly rate varies and classification of work varies.

Pay the employee varying amounts based on work performed, provided that the hours worked in each classification are documented and the hourly rate paid is at least the minimum rate for each classification.

The certified payroll reflects each work classification, hours worked in each, and rate paid for each.

Example:

General Decision Number FL 2003xxxxx		
CLASSIFICATION	RATE	FRINGE
Truck Driver Mullti Rear Axle	$8.88	-
Unskilled Laborer	$7.77	-

NAME	WORK CLASSIFICATION	HOURS WORED EACH DAY ON THIS PROJECT							TOTAL HOURS	RATE OF PAY	GROSS
		S	M	T	W	Th	F	Sa			
		4/4	4/5	4/6	4/7	4/8	4/9	4/10			
DLEX, JOE	Unskilled Laborer		8	8		2	8		26	$ 7.77	$202.02
	Truck Driver Multi rear axle				8	6			14	$ 8.88	$124.32

B. Hourly rate and reported classification is unchanged although work varies.

All hours worked by the employee are paid at one rate which is equal to or greater than the minimum rate of the 'highest classification of work'. The

'highest classification of work' is the classification which the employee worked in which has the highest minimum wage on the Wage Decision.

The actual rate paid is equal to or higher than the minimum for each classification worked in.

The certified payroll reflects the highest classification of work, hours worked each day, and the one rate applied to all work.

General Decision Number FL 2003xxxxx		
CLASSIFICATION	RATE	FRINGE
Truck Driver Mullti Rear Axle	$8.88	-
Laborer	$7.77	-

NAME	WORK CLASSIFICATION	HOURS WORED EACH DAY ON THIS PROJECT							TOTAL HOURS	RATE OF PAY	GROSS
		S	M	T	W	Th	F	Sa			
		4/4	4/5	4/6	4/7	4/8	4/9	4/10			
DLEX, JOE	Truck Driver Multi rear axle		8	8	8	8	8		40	$ 8.88	$355.20

6.5.8 Working Foreman/Women

Working foreman/women are those employees who, while having some supervisory duties, also engage in "hands-on" construction craft and laborer work. The time that a working foreman expends in the construction craft or laborer work is subject to the Davis-Bacon Act provisions provided:

(1) The employee does not qualify as an exempt executive (as defined in Part 541 of 29 CFR);
And (2) Twenty percent or more of the pay period involves construction craft or laborer work.

The payroll record of a working foreman includes the designation of Foreman plus the craft or laborer classification worked in (example Foreman-Carpenter). The Working Foreman/Woman is to be paid at least the minimum rate listed in the Wage Determination for the hours spent working in the specific classification.

If a working foreman works overtime hours in a craft or laborer classification, the wage paid for those overtime hours must be at least equal to time and a half (1.5) of the rate specified for that classification on the project's wage determination. If it is less, additional pay is due for each of the overtime hours.

A working foreman's hourly rate for a craft or laborer classification is calculated as follows:

Weekly Pay rate divided by 40 hours=equivalent hourly rate

EXAMPLE:

A working foreman/carpenter's weekly pay is $600.00 per week; the hourly rate is $15.00 ($600.00/40 hours). The wage decision for carpenter is:

General Decision Number FL xxxxx		
CLASSIFICATION	RATE	FRINGE
Carpenter	$10.00	-

If overtime hours are incurred while working as a carpenter, this working foreman must earn at $15.00 per hour (1.5 times the carpenter's 'rate' of $10.00). This employee's hourly rate equals the time and a half rate. So no additional pay is required. If the employee's hourly rate was less than $15.00 then additional pay would be required for each overtime hour to equal the time and a half rate of the carpenter.

6.5.9 Independent Contractors

Occasionally, a contactor will have a person perform work on a project and that contractor will report that the person is an independent contractor and not an employee. Generally, a person cannot become an independent contractor just because he or she wants to be or because an employer prefers them to be. It is not enough that the employee and the employer agree.

Independent contractors are a legitimate resource in highway and bridge construction projects. The Department's concern is to ensure that such is not being falsely claimed in order to circumvent taxation, workers compensation and or prevailing wage requirements.

The U.S. Dept of Labor and the U.S. Supreme Court have indicated that there is no single rule or test for determining whether an individual is an independent contractor or an employee.

FDOT may advise the contractor of apparent violations and will rely on the determination of investigators from Internal Revenue Service, US Dept. of Labor etc for a determination as to the validity of the reported status.

The U.S. Dept. of Labor Fact Sheet #13, 'Employment Relations under the Fair Labor Standards Act' offers additional insight as well as various Internal Revenue Service documents. The Fact Sheet is available at the US Dept. of Labor website (Section 1.4).

The work of independent contractors is to be authorized for the project through a sublet or rental agreement. All subcontractor compliance reporting requirements apply to independent contractors (see Section1.7 Compliance Requirement Summary) including submission of certified payrolls reflecting hours worked on the project and classification of work.

Owners of independent contracting businesses who themselves perform the work of a laborer or mechanic on Davis Bacon covered jobs may be exempt from the prevailing wage requirements. To qualify as an exempt owner, a 20% bona fide equity interest must be held and the individual must participate in management of the business. To establish eligibility for this treatment, the owner must file a statement with the FDOT attesting to their ownership interest and management activities within their organization. This must be filed with an original signature on each job where the business owner performs manual or physical work at the job site. After this statement is filed, for each week where the business owner works at the job site, the certified payroll should show their name and four (4) digit identifier, but the remaining information need not be shown, just a notation, "Owner – 541 Excluded". This treatment will be accorded only to bona fide subcontractors.

6.5.10 Truck Owner Operators

An owner-operator of a truck is one who owns and drives their own truck. The operation of trucks by owner operators may be authorized for the project through a sublet agreement, rental agreement, or purchase order. Truck owner operators are not routinely subject to EEO reporting however they are subject to complying with FDOT's non-discrimination requirements and an 'abbreviated certified payroll' is required.

The abbreviated certified payroll of a truck owner operator includes their full name and the notation 'owner-operator'. None of the other data items (hours, rate, deductions, etc) required on a certified payroll is shown.

Contractors are responsible for insuring accurate reporting of all such operators on federal aid or federally assisted projects. It is acceptable for the prime or subcontractor who engages the owner operator to list the truck owner operator on their certified payroll provided they have (1) acquired and retained documentation attesting to the operator's ownership of the truck and (2) have a valid basis for assuring that only the owner is operating the truck on the specific project.

This basis may be established contractually (subcontract specifies that only the owner may drive the truck on the specific project), or with an affirmation statement signed by the owner of the truck, or through process controls where the operator of the truck is verified and documented for each load. Documentation of this valid basis is subject to verification. It is to be retained by the contractor for a minimum of three years following FDOT final payment on the project.

Periodically, truck drivers who perform on-site hauling (refer to Table 1.7.4.1) are subject to job-site interviews by representatives of FDOT or other agencies. The primary purpose of the interview (FDOT form 700-010-61 Trucker Interview) is to confirm job site authorization and eligibility for claiming owner-operator status (if applicable). The interview includes a review of motor vehicle registration and the driver's license. A trucker interview may be conducted on any truck associated with the project in order to affirm that unauthorized firms are not operating on the project.

A payroll violation is issued when it is determined that a driver does not actually own the truck they are operating on-site and they have previously been reported as a truck owner-operator. Correction requires submission of a certified payroll reflecting all required data elements and an hourly rate at least equal to that specified on the project Wage Table for the class of truck operated.

The work of Truck Owner Operators may be authorized for a project through a Sublet Agreement or Rental Agreement. Truck Owner Operators are subject to contract compliance reporting (refer to Workbook Section 1.7, Compliance Requirement Summary for details).

A specialized interview is periodically conducted on owner operator truck drivers who perform on-site hauling to confirm job site authorization and eligibility for claiming owner-operator status.

The primary purpose of the Trucker Interview (Form 700-010-61) is to confirm that the driver qualifies as an “Owner-Operator” under the reporting requirements of the Copeland Act. Refer to Table 1.7.4.1, Subcontract and Rental Agreement Summary to determine which truckers may have a Trucker’s Interview.

However, if as a result of the trucker interview, an improperly licensed driver is identified at the job site, the driver, prime contractor, Project Administrator and District Contract Compliance Manager will be notified. The prime contractor will be responsible for insuring improperly licensed drivers do not return to the job site until the proper operator’s license is obtained as specified in state law.

6.5.11 Certified Payroll for Warranty Work

Some construction contracts include provisions for warranty work following the final pay-off of a project. A certified payroll is required for construction craft and laborer workers performing warranty work on FDOT Federally funded contracts if the employee(s) spend more than twenty percent (20%) of their work week on the site of the original work. All certified payroll requirements associated with work during construction apply to the warranty work. The notification to the contractor regarding the necessary warranty work will include reference to the requirement and instructions on where to submit the certified payrolls.

6.5.12 Time Frame for Submittal of Payrolls

Each week in which any contract work is performed, the prime contractor will submit to the FDOT compliance staff the payrolls and original signed Statements of Compliance within seven (7) calendar days after the regular payment day of the payroll period. The prime contractor is responsible to assure that all required payrolls are submitted for all

subcontractors, rental companies (for agreements with operators), and temporary employment agencies performing work during the subject week.

6.5.13 Contractor's Retention of Payroll Records

Payrolls and basic records relating to those payrolls shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of three (3) years from the date of completion of the project. These records are required to be available for inspection copying or transcription by FDOT, FHWA, USDOL or authorized representatives.

6.5.14 Statements of Compliance

The Wage and Hour Record (form No. 700-010-69) has two required parts:

1 A Statement of Compliance which includes an original signature of the contractor or their agent who pays or supervises the payment of the persons employed under the contract,

2 The 'age and hour record or payroll record. Optional additional pages are provided for more space in detailing employee deductions ('Deduction Report') and employee fringe benefits ('Fringe Report').

The Statement of Compliance may be retyped for the convenience of the contractor, but it must contain the exact words and sections of the original form. The Statement certifies:

1. That the payroll for the pay period contains the information required and that such information is correct and complete.

2. That laborer(s) or mechanic(s) (including apprentice and trainee) employed on the contract during the payroll period have been paid the full wages earned and that no deductions, directly or indirectly, have been made other than those permissible.

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage rate determination incorporated into the contract.

4. That the contractor or subcontractor shall make the required records available for inspection, copying or transcription by authorized representatives of the Department, the FHWA and the U.S. Department of Labor.

Notifications of noncompliance (payroll violations) are issued for payrolls which have errors, are not consistent with interview reports, or show inadequate payment of employees.

6.5.15 Directions for Completing Wage and Hour Form (700-010-69)

This form includes four pages: Statement of Compliance, Wage and Hour Record, Deductions Record, and Fringe Benefit Record. Computer generated payrolls should follow these same guidelines.

Directions for Completing the Statement of Compliance

Date	Record the date this record is being submitted
Name:	Name and title of person signing the Certification
Contractor;	Name of the company for which the employee works
Building or Work	Identification of the project (the FDOT contract number)
Payroll Period	Day and month /year pay period begins
	Day and month/year pay period ends
Contractor	Name of the company for which the employee works
Description of Deductions	
	Each deduction listed on the payroll should be listed in this area (the four blank lines after and described below), however, a phrase such as “see attached payroll for deductions” is recommended in lieu of listing each one separately.
Box 4a, b, c	Complete these boxes only if the wage determination (WD) for this project indicates a fringe payment amount for classifications.
Remarks	Include any data deemed appropriate
Name & Title	Name and title of person signing the Certification
Signature	The person’s signature

Directions for completing Wage and Hour Record

Column 1. All payroll records submitted shall contain the employees first and last names. On contracts let on or after Jan. 19, 2009, the employee’s address is not reported and a 4 digit employee identifier should be recorded instead of their nine digit social security number.

Column 2. This column is for withholding exemptions, Race, and Gender.

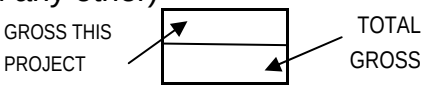
Column 3. Classification: Record the classification as it appears on the wage determination (WD) or on the Additional Wage Rate Request for the specific project. Semi-skilled laborer, helper, or operator (without designation of which type) cannot be used. If the classification listed on the payroll is not exactly as it appears on the WD, the contractor may submit a signed letter to clarify and to correlate the payroll classification to the WD.

Column 4. Hours worked by day of week. Overtime hours are to be listed on the upper row, straight-time hours are to be listed on the lower row.

Column 5. Total Hours Worked on FDOT Project (shown separately for overtime and straight –time).

Column 6. Rate Paid – Indicate the hourly pay rate for overtime on upper row and straight-time on lower row. Check the rate paid for the work classification against the wage determinations for the specific contract.

Column 7. Gross Amount Earned. On the top section, record the employee's gross earnings on this project. On the bottom section, record the employee's total gross earnings this pay period (includes this project, other FDOT projects and any other)



Column 8. Deductions: Deductions other than FICA or withholding taxes *must be* identified. The amount of each and every deduction shall be listed along with its description, including those not requiring USDOL authorization. (See Deductions Section 6.5.4).

Column 9 Net wages paid for week.

Directions for completing the Deductions Record

Record the contractor's name, address, payroll number, pay period ending date, contract number, financial project number and project description/county.

Employee Name (last, first): Record the employee' name as it appears on the 'Wage and Hour Record

Type a 'deduction description' in each box and then record the amount of that deduction for each employee or leave blank. Do not mix deductions and benefits on the same form. Example

Employee's Name	Loan	Uniforms	Medical-individual		Total Deductions Amount
Adams, Juan		$8.00			$8.00
Beser, Louis	$25.00	$8.00	$34.00		$67.00

Directions for completing the Fringe Benefits Record

Record the contractor's name, address, payroll number, pay period ending date, contract number, financial project number and project description/county.

Employee Name (last, first): Record the employee' name as it appears on the 'Wage and Hour Record

Type a 'Fringe Benefit description' in each box and then record the amount of that Fringe Benefit for each employee or leave blank. Do not mix deductions and benefits on the same form.

Section 6.6

Notification of Payroll Violation

6.6.1 Purpose

Payrolls are to be promptly reviewed by the Resident Compliance Specialist and the contractor is to be advised of all instances of omissions, tardiness and violations.

6.6.2 Violation Types

The Resident Compliance Specialist issues a 'Notice of Noncompliance' letter (see Workbook Section 1.6) in the event:

A. The contractor or subcontractor was active on a project and failed to submit a certified payroll for that week

B. The certified payroll record is not received with in seven (7) days of that company's regular payment day of the payroll period.

C. The Statement of Compliance is incorrect or incomplete

A Payroll Violation (Form 700-010-59) is issued by the Resident Compliance Specialist when it is determined the certified payroll does not comply with the minimum wage requirements, that the submitted wage/payroll information is incomplete or erroneous, or unauthorized deductions were made. Phone calls shall not be placed in lieu of issuance of this form; however, phone calls may be used to determine the nature or character of an apparent violation to better assure that a correct action or response is taken.

Payroll violations are identified by a code number. The payroll record of any one employee may reflect more than one violation. Table 6.6.2 summarizes the violation codes.

Table 6.6.2
Payroll Violation Codes

Code	Description
1	Time and one-half rates were not paid for work performed in excess of 40 hours per week.
3	Improper Classification-employees observed assigned to work involving "higher" classifications than those shown on payroll listing, or if a classification is used that is not on the wage determination and has not been requested
4	Hourly rate paid is less than minimum authorized wage rate for classification of work shown and included in the construction contract.
5	Certified Payroll contains mathematical errors that indicate payment made to the employee(s) violated Federal Aid labor provisions or the contract.
6	Unauthorized Payroll deductions
7	Other Violation not listed above

6.6.3 Correction Requirements

The prime contractor is responsible for obtaining and forwarding to the Resident Compliance Specialist, all documentation and records required to satisfactorily resolving all Notices of Noncompliance and Payroll Violations issued for their own workforce, their subcontractors, temporary employment agencies, and rental agreements with operators.

Code 3, 4, 5 or 6 payroll violations require contractors to furnish to the Resident Compliance Specialist, within 20 calendar days, an original certified supplemental payroll showing the payment restitution along with proof of payment made and received by the employee.

In the event the contractor cannot contact the affected employee, (e.g. moved and no forwarding address) the contractor is not relieved of the responsibility for payment. In those cases, payment in the amount owed the employee must be sent to the U.S. General Accounting Office (U.S.G.A.O.) in the form of a check or money order as follows. The payment document should have a minimum expiration period of 90 days.

Make payable to: "First and Last name of Employee OR U.S.G.A.O"
(Example: 'John Doe OR U.S.G.A.O").

Mail the check to:

US Dept of Labor, Wage & Hour Division Regional Office
Sam Nunn Federal Center,-Room 7M40
61 Forsyth St SW,
Atlanta, GA 30303.

So that the USDOL can readily identify and make appropriate disbursements to the affected employees, the check should note the name of the contractor and the contract number for which the work was performed.

The payroll record reflecting correction of a violation, and its accompanying Statement of Compliance is referred to as a supplemental payroll. The supplemental payroll is to be reviewed by the Resident Compliance Specialist. If it substantiates correction of the cited violation then contractor will be considered to be in compliance and no further non compliance action is taken.

If the corrective action does not satisfy the violation cited or if a certified supplemental payroll is required and is not received within the (20) twenty days allotted, and/or is received and does not satisfy the infraction, then the Resident Compliance Specialist coordinates the Performance Deficiency Letter which withholds the monthly progress estimate in its entirety and affects the final grade of the prime contractor's Past Performance Rating.

Section 6.7

Wage Surveys

6.7.1 Purpose

Wage surveys are the means by which the USDOL gathers information to update the WD's prevailing wage rates.

6.7.2 Requirements

Wage surveys will be conducted when the U.S. Department of Labor (USDOL) initiates them and commits to publishing new wage tables from the surveys. USDOL will outline the time period for which survey data will be collected, which is usually for a year's time period. The Prevailing Wage Rate Coordinator, along with the District Contract Compliance personnel, will encourage contractor participation by means of announcements and workshops in the districts and communication through the contractor's associations. The points will be stressed that (1) the results of the survey's accuracy are determined by the amount of participation (poor participation creates erratic rates in the wage tables) (2) once the survey is done, rates will be in effect for at least the next three years and (3) if voluntary participation is not successful the Department will have no choice but to return to a contract requirement method of collecting data.

6.7.3 Data Collection

USDOL will provide the forms and assemble the data when collected. Instruction will be given by USDOL and/or FDOT to help guide contractors and other Department personnel through the survey process.

Section 6.8

Fringe Benefits

6.8.1 General Information

A wage determination ('WD') may contain two separate requirements for any individual classification: 'Rate' and 'Fringe', the sum of which is the 'prevailing wage' for the classification. 'Rate' refers to a monetary wage and 'Fringe' refers to payments for a bona fringe benefit.

Contractors may meet the prevailing wage requirement for a classification by paying combinations of cash and bona fide fringe benefits:

Paying the sum in cash
Paying cash and making or incurring cost for 'bona fide' fringe benefits
Some combination of the above

Under the Davis Bacon Act, monetary wages paid in excess of the specified rate may be used as an offset or credit to satisfy fringe benefit obligations. Likewise, excess Fringe benefits may be used to satisfy the specified rate provided the governmental minimum wage is honored in cash.

Where excess fringe benefits are used to offset the rate, an employee's overtime pay of time-and-a half must be based on at least the rate specified.

6.8.2 Fringe Statement on Wage Determinations

The WD may state the fringe for a specific classification in a variety of ways:

General Decision Number FL xxx xxx

Fringe stated as:	CLASSIFICATION	WD RATE	WD FRINGE
Dollar amount per hour	Loader	$12.00	$2.00
Percent	Driver	$12.00	3%
Specific benefit described in a footnote of the WD	Painter	$12.00	(a)
Percent plus Dollar amount per hour plus	Carpenter	$12.00	3%+ $2.00
Percent, Dollar amount per hour plus footnote	Loader	$12.00	3% ,$2.00, (a)
Sample WD Footnote:			
(a) Four (4) Paid Holidays per year			

The value of fringe stated as a percent is calculated by multiplying the percent times the WD Rate. The value of fringe described in a footnote is calculated using the WD Rate unless otherwise specified.

Example A

CLASSIFICATION	WD RATE	WD FRINGE
Carpenter	$12.00	3% + $2.00

Value of Fringe for Example A:

$12.00x .03=	$0.75
Plus	$2.00
WD Fringe Value	$2.75

Example B

CLASSIFICATION	WD RATE	WD FRINGE
Carpenter	$12.00	3%+$2.00+(a)

Value of Fringe for Example B:

$12.00x .03=	$0.75
Plus	$2.00
Plus (a)	
4holidayX8 Hr per day X$12=$384.00	
Hourly value: $384/2080 Hr=	$0.18
WD Fringe Value	$2.93

6.8.3 Fringe Benefits: Work Hour and Overtime Requirements

Where a wage determination specifies rate and fringe, fringe benefits must be paid for all hours worked, including overtime. Overtime wages, including overtime fringe benefit payments, are governed by Contract Work Hours and Safety Standards Act (CWHSSA).

The fringe amount may be excluded from the half-time premium for overtime; fringe may be paid at the straight rate (versus the time-and-a-half rate) for overtime hours.
Cash payments made to meet a required wage determination fringe benefit amount are excluded from the half time (.5) premium for overtime; cash payment of fringe benefit requirements are paid at the rate of 1.0 for each overtime hour.

Following are three alternatives for the proper payment of fringe for overtime hours. Example: The Cement Mason works 44 hours during one pay period.

General Decision Number FL xxx xxxxx		
CLASSIFICATION	RATE	FRINGE
Cement Mason/Concrete finisher	$12.00	$2.50

The employee's total compensation will be $662.00. However, gross wages on the paycheck may be less due to satisfying all, some or more of the fringe requirements in benefits.

Alternative 1: Contractor pays rate and fringe in cash only; no bona fide fringe benefits are involved. Overtime must be paid at 1 ½ the sum of the cash paid rate and fringe:

Cash Wage	$14.50	(=$12+2.50; no bona fide fringes)
Straight time	$580.00	(=40 hrs x $14.50)
overtime	$72.00	(=4 hrs x ($12.00 x 1.5)
		(=4 hrs x ($2.50x 1.0) (no half time premium on benefits)
	$10.00	
Gross Wages	$662.00	

Alternative 2: Contractor pays rate in cash and fringe in bona fide benefits. Only the rate is subject to 1 ½ premiums and the fringe is paid at straight rate for overtime.

Cash Wage	$12.00	(and bona fide fringes equivalent to $2.50)
Straight time	$480.00	(=40 hrs x $12.00)
overtime	$72.00	(=4 hrs x ($12.00 x1.5))
Gross Wages	$552.00	Plus bona fide fringe benefits

Alternative 3: Contractor pays cash at lower than the specified rate and pays fringes greater than specified. The ½ overtime premium is paid ½ the specified rate.

Cash Wage	$10.00	(and bona fide fringes equivalent to $4.50)
Straight time	$400.00	(=40 hrs x $10.00)
overtime	$40.00	(=4 hrs x ($10.00)
	$24.00	(=4 hrs x (1/2 x $12.00 Rate)
Gross Wages	$464.00	Plus bona fide fringe benefits

6.8.4 Bona Fide Fringe Benefits

Bona fide fringe benefits allowed by law include;

- Funded benefit plans:
  - Insurance: Life, health, dental, etc
  - Pension and 401K
- Unfunded benefit plans:
  - Vacation, holidays and sick leave

Deductions required by law such as taxes, social security, worker's compensation or unemployment compensation cannot be counted as a fringe benefit. Examples of items not considered bona fide fringe benefits include, but are not limited to the following:

- Personal use of a company vehicle
- Holiday cash bonus or food item
- Suggestion awards
- Recruitment bonuses
- Tools and other materials or services incidental to the employee's performance of the contract
- Cost of furnishing, laundering and maintained uniforms or equipment where the contractor requires the employee to wear those items
- Cost of social functions, association dues, paid coffee breaks.

6.8.4.1 Funded Benefit plans

Funded Benefit Plans involve contractor payments to a fund, plan or program where such payments are made irrevocably to a trustee or a third party. Insurance premiums paid irrevocably to a third party (e.g. insurance carrier) and employer 401K contributions and pension fund payments to a third party are examples of funded benefit plans. These may be credited toward the prevailing wage requirements if all requirements are met including the following;

A. Such payments must be made regularly and at least quarterly. Profit sharing plans are bona fide fringe benefits provided the contractor escrows money at least quarterly on the basis of what the profit is expected to be.

B. Fringe benefit contributions may not be claimed for employees who are not eligible for the benefit. (e.g. excluded because of part time status)

C. Contributions to pension plans which meet ERISA (Employment Retirement Income Security Act) requirements are considered bona fide

D. Contributions to pension plans which contain vesting requirements (i.e., the employee is required to complete a certain length of employment) are bona fide provided the contractor's contributions for the employees who do not

meet the requirement are not reverted, credited and/or returned to the employer but instead are distributed to the remaining pension participants.

Contributions made to funded fringe benefit plans are allowed based on the effective annual rate of contributions for all hours worked during the year by an employee, regardless of whether or not the hours were worked on a Davis-Bacon project. This is referred to as annualization.

Example

General Decision Number FL xxx xxxxx		
CLASSIFICATION	RATE	FRINGE
Cement Mason/Concrete finisher	$12.00	$2.50

The contractor provides the Mason a medical insurance premium contribution of $200 per month, which is $2400 per year ($200x 12 months). The employee's annual hours are 2080 (52 weeks x 40 hours per week) so the hourly insurance premium contribution is $1.15 ($2400 annual premium divided by 2080 hours worked per year).

If the employee receives only medical insurance as a fringe benefit, then for each hour worked on projects covered by the WD, the employee's pay is:

$12.00 hourly rate
1.15 hourly fringe benefit form insurance premium
1.35 additional cash due for fringe
(=$2.50 total fringe-$1.15 Insurance premium)
$14.50 ($12.00 Rate +$2.50 fringe)

The certified payroll would report an hourly pay rate of $13.35 ($12.00+$1.35) and the medical insurance would be identified as a fringe benefit.

6.8.4 2 Unfunded Benefit Plans

In unfunded benefits, monies are not paid by the contractor to a third party for future payments; rather the benefit is paid by the contractor as the benefit is earned. Common unfunded benefits include paid holidays, vacation or sick time. The USDOL requires contractors to set aside, in an account, sufficient assets to meet the future obligation of unfunded plans in order to insure that such plans are not used to avoid compliance.

Unfunded benefits must also meet the following Davis Bacon requirements in order to qualify as bona fide benefits:

It is reasonably anticipated that the benefit will be provided to the employee.
The benefit is a commitment that can be legally enforced.
The benefit has a financially responsible plan or program.
The benefit has been communicated in writing to the employees.

The fringe contribution of most unfunded benefit plans varies based on the employee's actual hourly rate of pay. The following is an example of how 40 hours paid vacation would be calculated as a fringe benefit for two different employees who work 2080 hours per year i.e. 2080 (52 weeks x 40 hours per week):

	Actual Rate of pay(excluding fringe)	**40 hours vacation pay**	**Per hour fringe contribution for 40 hours paid vacation**
Employee A	$10.00	$400.00	$0.19 ($400 divided by 2080 hrs)
Employee B	$15.00	$600.00	$0.29 ($600 divided by 2080 hrs)

Note that the total hours worked in the year on projects covered and not covered by a Davis-Bacon wage determination are included for calculating the hourly contribution rate.

If unused paid time off is forfeited upon termination, then the per hour cost must be computed on the basis of the time off paid to the employee unless the employee is paid in full for time off upon termination.

Paid holiday hours may be counted as a bona fide benefit provided the employee who works any part of the week in which the holiday occurs will be paid the entire holiday pay. Contractors who require employees to work the day before and/or the day after the holiday in order to earn holiday pay, may be subject to verifications to prove the absence of arbitrary layoffs, and/ or other impermissible acts taken to avoid payment of holiday pay.

6.8.5 Administrative Expenses

The administrative expenses incurred by a contractor in connection with the administration of a bona fide fringe benefit plan are not creditable towards satisfying the prevailing wage requirement.

6.8. Reporting Payment of Fringe Benefits on the Statement of Compliance

Contractors who satisfy the fringe benefit requirements of a wage determination by making payments to an approved plan or program, report that by checking the box for Section (4)(a) on the Statement of Compliance (Form 700-010-69). This signifies that the contractor is making payments for fringe benefits to appropriate programs for the benefit of the employees. Box 4 A reads "where fringe benefits are paid to approved plans, funds or programs".

If the contractor is satisfying fringe benefit requirements by paying employees in cash, then the box for Section (4)(b) on the Statement of Compliance is checked. Box 4 B reads “Where fringe benefits are paid in cash”.

If the contractor is satisfying fringe benefit requirements by paying a portion to an approved plan and a portion to the employee, this is indicated by marking box 4(c) which reads “Exceptions’ and using the space provided for explanation.

6.8.7 Fringe Benefit Record Keeping Requirement

Fringe benefit contributions may not be averaged; credit may only be taken based on individual employee calculations. If fringe benefits are claimed toward the wage requirement, employer records must demonstrate, that for each reported employee, payments were made or costs incurred for eligible fringe benefits. This includes a detailed accounting of all deductions made and the identification of funds. The contractor may be required to submit such calculations in support of their compliance with payroll requirements. An example of calculation records for two employees is shown below/

EMPLOYEE RATE & FRINGE CALCULATIONS					EMPLOYEE FRINGE BENEFIT CALCULATIONS						ADDITIONAL CASH PAYMENT FOR FRINGE
CLASSIF.	EMPL.	EMP’S HOURLY PAY RATE	WAGE TABLE		MEDICAL See #1	LIFE INSUR See #2	DENTAL INSUR See #3	PAID VAC-ATION See #4	PAID HOL-IDAYS See #5	TOTAL PAID FRINGE	
			RATE	FRINGE							
CARP-ENTER	SMIT,J	$8.00	$8.00	$0.76	$1.73	$0.46	$0.26	$0.15	$0.18	$2.78	$0.00
CARP-ENTER	FUE,H	$8.00	$8.00	$0.76	DECLINED	$0.06	DECLINED	$0.15	$0.18	$0.39	$0.37
LOADER OPER-ATOR	GIR, M	$11.00	$9.50	$1.50	NOT ELIGIBLE UNTIL 6 MOS SENIORITY					$0.00	The $1.50 paid excess of base Rate is considered as Fringe ($11-9.50=$1.50)

FUNDED FRINGE BENEFIT CALCULATIONS	(A) Total Monthly Premium	(B) Monthly portion of premium paid by company	(C) Annual Standard Hours (40 hrs per week X52 wks)	(D) Monthly Standard Hours (Annual Standard Hrs divided by 12 mo) (= C / 12)	(E) Hourly Fringe Benefit Amount (Monthly Portion of premium paid by company divided by Monthly Standard Hours) (= B / D)
MEDICAL- EMPLOYEE ONLY COVERAGE	$600.00	$300.00	2,080	173.33	$1.73 (#1)
LIFE INSURANCE ($10,000 DEATH BENEFIT)	$80.00	$80.00	2,080	173.33	$0.46 (#2)
DENTAL INSUR-EMPLOYEE ONLY COVERAGE	$45.00	$45.00	2,080	173.33	$0.26 (#3)

UNFUNDED FRINGE BENEFIT CALCULATIONS FOR $8.00 HOURLY PAY RATE	(W) Paid Hours	(X) Employee Hourly Rate	(Y) Paid Hours . times Hourly Rate (= W x X)	(Z) Annual Value (Annual Value / Annual Standard Hours) (= Y / (40 Hr. per week x 52 Weeks)
PAID VACATION	5 days/yr @ 8hrs= 40 hrs	$8.00	$320.00	$0.15 (#4)
PAID HOLIDAYS	6 days/yr @ 8hrs= 48 hrs	$8.00	$384.00	$0.18 (#5)

6.8.8 Additional information on Davis Bacon Fringe Benefits

Contractors are encouraged to research the details of Davis Bacon fringe benefit requirements and consult with District Contract Compliance Managers and the Prevailing Wage Rate Coordinator for additional information and assistance.