

PREVAILING WAGE SUPPLEMENTS

THE DO'S/DON'T S, CREATING A BALANCE BETWEEN
EMPLOYER COMPETITIVENESS AND EMPLOYEE SATISFACTION –
WHILE REMAINING COMPLIANT

WELCOME

Tom Santa Barbara, CPFA ,AIF® - President of DirectAdvisors

Why should you Listen:

1. Your Reputation
2. Your Money
3. Your Company's Success

AGENDA

2020 Most asked questions by Contractors about Prevailing Wage
Supplemental Benefits:

- Transparency Fringe Supplement law
- Mandatory Sick Pay
- Prevailing wage on Private Work
- Case Study: How to be competitive and satisfy your employees
- The dos and don'ts when doing Public Work

REPORTING FRINGE BENEFIT SUPPLEMENTS IN A TRANSPARENT WAY

- New York State Department of Labor (NYSDOL), additional subsection to existing law labor law—found in subdivision 3 of section 220
- NYSDOL goal is to increase transparency of Fringe Supplements to the worker.
- They will inspect what they expect.

FRINGE SUPPLEMENT TRANSPARENCY

- The addition to the law became effective in June 2020.
- Requires full fringe supplement disclosure to workers who work on public works jobs.
- Form LS-58: This form needs to be presented to workers when they start a prevailing wage job.

LS-58

Employee Notice of Prevailing Wage Rate and Supplement Information to be Provided

Wage & supplement rates required (by law) and paid or provided (by employer)

Rate Number	Description of rate (classification and scope: regular hours, overtime)	Wage rates per hour		Supplements per hour	
		Required	Paid	Required	Paid/provided*
1	Carpenter District 1	\$ 32.03	\$ 32.03	\$ 23.10	\$ 12.50** \$ 10.60
2	Carpenter District 2	\$ 34.42	\$ 34.42	\$ 22.50	\$ 6.50 \$ 10.00
3		\$	\$	\$	\$

* Enter hourly totals (above) and breakdowns (below) for supplements paid or provided by the employer
 ** For hours work requiring overnight stay

Breakdown of supplements paid or provided for one or more items listed above

Rate#	Type	Hourly rate	Name & address of provider	Agreement / plan summary information
1+2	Training	\$ 0.50	Admin Sample, 123 St.	Sample Co. Training Program
1+2	Health + Welfare	\$ Remaining	"	Sample Co. Health + Welfare Plan
		\$		

ADDITIONAL REPORTING OF FRINGE SUPPLEMENTS

- Job Postings
- Printing on paycheck
- July 1 Fringe Supplement Update

WRITTEN PLAN/TRUST/PROGRAM

The NYSDOL is looking into your Plan/Trust/Program

- Make sure it is bona fide.
- Make sure the benefits are bona fide.
- Make sure the plan is in writing.
- Make sure the plan is communicated to workers.
- Make sure that you are annualizing.

SHORT VERSION OF ANNUALIZATION

- In New York State, if a contractor uses any portion of the fringe supplements, it must be annualized!

- How is Annualization is calculated:

$$\frac{\text{Amount of yearly bona fide benefit cost}}{\text{Number of hours worked}} = \frac{\text{Dollar per hour credit (\$)}}{\text{Number of hours worked}}$$

EXAMPLE OF \$ PER HOUR CREDIT

\$17,500 Bona Fide benefit Cost = \$10 per hour credit

1750 Total annual hours

When using \$10 per hour on Public Work, to comply with NYSDOL Annualization Rules, contractor **MUST** pay \$10 per hour on Private Hours!

MANDATED SICK LEAVE LAW

- You must comply with the new sick leave law that will be effective 1/1/2021
- Please refer to a fantastic ABC video webcast done by Chris Maugans, Esq. at Goldberg Segalla.
- Mandatory means: Contractor must pay! Cannot use fringe supplements to satisfy the law.
- What do I pay an employee who works both public and private jobs during a week he/she takes a sick day?

PREVAILING WAGE PAID ON PRIVATE WORK??

- The legislature has wanted to get this done for a few years
- It was passed in the 2020 April budget in Albany
- What does it say?
- Start Date: January 2022
- Prevailing Wage council currently being formed
- They will ultimately decide what private jobs will be using prevailing wage rates
- Exemptions-----Affordable housing, taxpayer developments under \$ 3 million

CASE STUDY

- Contractor is doing 85% public work hours
- Fringe supplement is very high: averages \$35 per hour
- Prevailing Wage workers: 30
- Bona Fide benefits offered: health insurance/dental/life
- Paid Time off/craft training/supplemental unemployment and 401(k) retirement plan
- New Plan: contractor paying his prevailing wage employees in cash

CONTRACTOR GOALS

- Contractor wants to bid jobs more competitively
- Wants to keep employee harmony/culture
- Wants to provide a hefty retirement next egg

FRINGE SUPPLEMENTS

- Workers all work 2000 hours
- 85% public hours = 1700 hours x \$35 = \$59,500 total fringe supplement!

CONTINUED

Design Considerations:

- Contractor currently paying fringe supplements in cash.
- How to find the happy balance between taking too much fringe from the employee and not maximizing savings?
- Problems associated with too much fringe supplements
- Solutions

POSSIBLE PROBLEMS:

- 1. Employee revolt! The employees were getting \$53,500, less taxes.
- 2. Employer is unable to deduct more than 25% of the eligible total payroll dollars. Limited by retirement plan testing limits.
- 3. Do not have seasonal layoffs---can't fill up the Supplemental Unemployment bucket--
- 4. Employer wants the most savings from labor burden (workers comp./liability insurance and FICA taxes)

SOLUTION:

- 1. Work backwards----Determine the maximum amount available for deposit into the retirement plan.
- 2. Determine how much fringe supplement is acceptable to take from the employee's paychecks—harmony! Hint: look for a % of fringe supplement dollars
- 3. Design the additional bucket \$ amounts—Insurances/Supplemental Unemployment/craft training.

IN CLOSING:

- The do's and don't s:
- Do---Post fringe supplements on job sites
- Do— Inform, in writing the fringe supplements per job to your employees
- Do—Understand the sick pay rules and your options
- Do—Annualize fringe supplements
- Don't—forget to update your rates on July 1
- Don't---fully cooperate if Audited
- Don't---fully communicate how you use employee fringe supplements

CONTACT INFORMATION

Thomas M. Santa Barbara, CPFA, AIF, President

Direct Advisors, LLC

518-362-2119 Office

tom@directadvisors.com

www.directadvisors.com