

# Memorandum

## CDBG Policy Guidance

Date: March 2, 2012

Policy: 12-01

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SC Department of Commerce, Grants Administration, 1201 Main Street, Suite 1600, Columbia, SC 29201  
[www.sccommerce.com](http://www.sccommerce.com)

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Subject: Fringe Benefits  
Resource: *A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects*

On January 6, 2012, the U.S. Department of Labor (DOL) published in the Federal Register, new Davis-Bacon wage decisions for SC which involve significant rate increases across the state for all construction types. Wage Decisions are effective from their date of notice in the Federal Register. The previous general wage decisions are now superseded and the newly published 2012 wage decisions are applicable to all Davis-Bacon Related Acts (DBRA) construction projects. Any formally advertised construction bids that were not opened prior to January 6, 2012 are subject to the new general wage decisions. Also, any construction contract that has not been awarded prior to January 6, 2012 and whose wage decision lock-in date (within 90 days of bid opening) has expired is also subject to the new general wage decision. Please contact the Grants Administration Labor Specialist with any questions concerning applicability. Davis-Bacon general wage decisions are available on-line at the following website:

<http://www.wdol.gov/dba.aspx#0>

Some wage decisions include fringe benefits which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, you will need to add the fringe benefit rate to the basic hourly rate. Prevailing wage requirements may be met by any combination of cash wages and creditable bona fide fringe benefits plan or program.

Fringe benefits typically include health insurance premiums, retirement contributions, life insurance, vacation, holidays, sick leave, etc. Fringe benefits **do not** include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

The *total* hourly wage rate paid to any laborer or mechanic (basic wage or basic wage plus fringe benefits) may be no less than the total wage rate (basic wage or basic wage plus fringe benefits) on the wage decision for their craft. If the value of the fringe benefit(s) provided by the contractor is less than the fringe benefit rate on the wage decision, they will need to add the balance of the wage decision fringe benefit rate to the basic rate paid to the employee. For example, if the wage decision requires \$10/hour basic rate plus \$5/hour fringe benefits, you must pay no less than that total (\$15/hour) in the basic rate or basic rate plus the fringe benefits provided. The obligation could be met in several ways: the employee could be paid the base wage and fringe benefits as stated in the wage decision, or \$15 in base wages with no fringe benefits, or \$12 basic wage plus \$3 fringe benefits. Additionally, the base wage could be "off-set" by more fringe benefits such as paying \$9 basic wage plus \$6 fringe benefits; as long as the total amount complies with the Davis-Bacon Wage and Fringe Benefit rate. Please be aware that

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the amount of the base wage used to “off-set” fringe benefits is limited by certain IRS and FLSA requirements.

The effective hourly rate must be reflected on the certified payroll. The rate may be no less than the rate plus fringe on the wage decision for the classification of work performed. If the wage decision contains a fringe benefit, check either 4(a) or 4(b) on the *Statement of Compliance*. Checking 4(a) indicates that the contractor is paying required fringe benefits to bona fide plans or programs; and 4(b) indicates that the contractor is paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If the contractor is paying a portion of the required fringe benefit to bona fide programs and the balance directly to the employee, the contractor must explain those differences in box 4(c).

If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid [neither 4(a) nor 4(b) is marked on the Statement of Compliance], the contractor may be asked to submit corrected payrolls **and** will be required to pay wage restitution if underpayments occurred. If the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate *plus* the fringe benefit rate), no correction is necessary.

As a reminder, the overtime rate is computed at one and one-half times the *basic* rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the overtime rate would be:  $(\$10 \times 1\frac{1}{2}) + \$5 = \$20/\text{hour}$ .

The Grantee should make sure that every contractor and subcontractor working on a CDBG-funded project is aware that they must maintain a complete set of payrolls, including evidence of fringe benefit payments for at least three years after the project is completed. The prime contractor must keep a complete set of all payrolls for every contractor and subcontractor. Please make sure the most updated payroll forms are used. These can be downloaded from the [www.cdbgSC.com](http://www.cdbgSC.com). If you have any questions, please call Lauren Wise at 803-734-0709.

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