

## REFERENCE B LABOR MARK UP, PAYROLL TAXES AND FEES

Effective: April 1, 2006

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### **Explanation of Labor Mark up, Payroll Taxes, Administrative Fees, and Liability Insurance Premiums**

#### **Compensation of Wages and Fringes with 38% Mark Up**

The Contractor is entitled to compensation for the wages and fringes paid to the crew working on the force account plus the specified mark up of 38% specified in 109.05.C.2. of the C&MS. This mark up provides compensation for profit and other expenses specified in 109.05.C.11 in C&MS.

The Contractor is allowed compensation for wages and fringes at rates normally paid to the work classifications involved on the force account. The wages and fringes must be at least the Prevailing Wage rates specified in the proposal. The Contractor is entitled to reimbursement for wages and fringes paid at rates above the Prevailing Wage rates if such higher rates are supported by certified payrolls on original contract work or other acceptable documentation showing that this is Contractor's normal compensation to these workers.

The crew size and composition allowed is what the Contractor would normally use on similar work paid by bid prices. The project records should match the crew size submitted on the force account. Any differences must be explained to the satisfaction of the District.

Compensation for the salary or wages of the superintendent is not allowed on the force account. This expense is covered by allowed mark ups. If the superintendent performs physical labor covered by Prevailing Wage on the force account for more than 20% of the work day, then the time the superintendent is engaged in Prevailing Wage work on the force account is compensable.

#### **Payroll Taxes and Government Insurance Premiums**

##### **FICA (Social Security 6.20% Medicare 1.45%) 7.65%**

This is paid by the Contractor for each employee as follows:

- Social Security (OASDI) 6.20% of the first \$87,000 paid to the worker in the calendar year.
- Medicare 1.45% of all wages paid to the worker during the calendar year.

An equal amount is deducted from the worker's pay for the worker's contribution. The expected rate during the entire year is 7.65% of payroll and the District may accept it as such without verification.

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### **Federal Unemployment Insurance .8%**

The Contractor pays into the Federal Unemployment fund an amount equal to .8% of the first \$7,000 that is paid to that worker during the calendar year. After a worker is paid \$7,000 in wages the Contractor does not pay into Federal Unemployment for that worker for the rest of the year.

### **State Unemployment Insurance .4% to 9.0**

The Contractor pays Ohio unemployment taxes as a percentage of the first \$9,000 paid in wages to a worker during a year. This includes overtime pay. This percentage is established by the Ohio Department of Jobs and Family Services (ODJFS) and varies by Contractor as follows:

- A new Construction Contractor is charged 4.6%.
- Once a Contractor's account is charged with benefits for 4 consecutive calendar quarters ending June 30 ODJFS establishes a new Experience Rate based on the amount of unemployment claims the Contractor's employees made and the Contractor's annual taxable payroll (reported to ODJFS quarterly by the Contractor).
- The Contractors are notified by December 1<sup>st</sup> as to the rate they will pay for the coming year.

For both Federal and State Unemployment taxes, the full rates are compensable if the work is performed on or before June 30 of the year. For work performed after June 30 of the year, the Contractor must show that these taxes are still being paid for the individual worker. Acceptable evidence would be the company's quarterly or monthly unemployment tax report or a notarized statement of the worker's gross wages to date.

### **Ohio Workers' Compensation 1% to 34%**

This premium is paid into the State Insurance Fund for injured workers, administered by the Ohio Bureau of Workers' Compensation (BWC). This premium is calculated as a percentage(s) of wages paid by the Contractor throughout the calendar year. The payroll rates vary greatly by Contractor based on the type of work the Contractor does and their on-the-job accident history.

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The BWC pays an injured or disabled worker's medical expenses and a portion of their normal income when they cannot work due to injury or disability suffered on the job. Under Ohio Law the worker cannot sue the Contractor for damages for a job related accident.

Twice a year ( January and July), the Contractor receives a form from BWC which informs the Contractor what rates they are charged for the previous six months of work. The Contractor uses this form to report to BWC their payroll for the previous six months of work and calculate their six-month premium. This means that wages paid from January 1 to June 30 are reported on the July payroll report and wages paid July 1 to December 31 are reported on the January Payroll Report.

BWC payroll report instructs the Contractor to report the payroll for the previous 6-month period separating the payroll according to the different manual classifications. Manual classifications are assigned to each employer based on the job duties reported on the initial application for BWC coverage. The payroll report comes to the Contractor with the manual classifications and the rates already entered. The Contractor enters the actual payroll for each manual classification, multiplies by the rate assigned to that manual classification, then adds the totals for each and this figure is the premium amount due to BWC. Accordingly, the Contractor does not know for certain what rate they will be charged until after the work is performed, but they have a good approximation. Also, the rates vary by worker classification but Contractors quote a single rate which is acceptable if it fairly represents the effective rate to be paid for the crew(s) working on force the account.

### **Longshore & Harborworkers' Compensation and Jones Act      52.50%**

This is a Federal program to provide medical care and income compensation to dock workers injured or disabled by on-the-job accidents. The Contractor is required to carry this insurance only for workers who are working from a barge or ship or unloading a barge or ship. There is an program called the Jones Act that covers the captain and crew of a barge or ship and would be compensable on the force account if it requires such workers.

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The Contractor may carry Longshore & Harborworker insurance for any work “Over Water”, however, force account compensation is allowed only for work from a barge or ship, loading and unloading a barge or ship, and for the captain and crew.

This insurance can be obtained through the Ohio Bureau of Workers’ Compensation which is the rate cited above or from a Federally recognized private insurance company.

### **Standard 22% of Wages Instead of Itemization**

The Contractor may elect to be compensated for payroll taxes at a specified rate of 22% of force account wages. This rate supersedes the rate specified in section 109.05.C.2. of C&MS. The Contractor may take this option even when the actual payroll taxes are less than 22%.

Payroll taxes are paid on wages only and not on fringes paid into a benefit program. Some Contractors, however, pay their workers wages equal to the required prevailing wage and fringes instead of paying into fringe benefit programs. In these cases of “Paying Fringes as Cash” the amount that represents the required fringe payment is taxed as wages and the Contractor is entitled to 22% of the fringes paid as cash as part of the compensation for payroll taxes.

### **Administrative Fees**

Contractors that use workers covered by Union contracts must pay various fees and dues required by the contract. A summary of such payroll dues and administrative fees for the current Union contracts, are listed in Appendix D. These are compensable under 109.05.C.2. of the C&MS on force account without a mark up.

Appendix D does not give the amount of the dues and fees, because they are subject to change by new Union contracts. The amounts are stated in the Union contracts and the Contractor or the District Prevailing Wage Coordinator can supply the District Construction Office with copies of these charges.

### **Liability Insurance Premiums in Excess of 5%**

The Contractor’s premiums for General Liability and Auto Liability required by Section 107.12.B and C of C&MS, are charged as percentages of the Contractor’s payroll for various work classifications. The classifications that involve greater risk of liability, such as steel erection and bridge painting, are charged higher rates than those that carry lower risk of liability such as earthwork. The overall company-wide rate most Contractors are assessed is no more than 5%.

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The 5% of payroll premium that most Contractors incur on extra work is compensated as part of the allowed 38% mark up on labor costs. This is stated in Section 109.05.C.11. of C&MS and modified in the Boiler Plate proposal note. The C&MS , however, recognizes that some Contractors whose work is mostly in high risk classifications will be charged a premium in excess of 5% of payroll. This excess, when documented by the Contractor, is compensable without mark up, on force accounts and agreed prices based on cost analysis on projects under the C&MS.