

## **ADMINISTRATIVE RULING APPLICABLE TO EXTRA WORK PERFORMED ON 1997 SPEC BOOK PROJECTS ON MARCH 1, 2003 AND AFTER.**

**Effective March 1, 2003**

### **Administrative Fees**

Administrative fees that are required by a collective bargaining agree will be compensated without any mark up. These fee are not a fringe benefit and not entitled to be included in the 38% mark up on wage and fringes. The 2002 Spec Book addresses this issue in section 109.05.C.2. fifth paragraph (page 71).

A tabulation of the current fringe benefits and administrative fees is attached for your guidance.

### **Unemployment Insurance Premiums Limits**

State Unemployment Taxes are paid only on the first \$9,000 of wages the contractor pays to an employee during the calendar year and Federal Unemployment Taxes are paid on the first \$5,000.

For force accounts performed after July 6th of the year, the District should verify that these Unemployment Taxes are still being paid for the individual employees on the force account crew. The maximum expected State Unemployment Tax rate for a Contractor in 2003 is expected to be 6.5%. Higher rates may be assessed as a penalty for late payment or reporting. These requirements are also applicable to projects under the 2002 Spec Book.

Attached also for your guidance is an explanation of payroll taxes and a fictitious example for a project under the 1997 Spec Book.

### **Foeman's Truck**

The Foreman's Truck will be compensated at \$5.00/ hr for every hour the Foreman is on the force account work, according to Section 109.05.C.5. of the 2002 Spec Book. This changes the rate stated in the Change Order Policy 512-004(P) Appendix A. Part VI.

These rulings also apply to agreed unit prices and agreed lump sums based on a cost analysis.

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## RECOGNIZED FRINGE BENEFITS

(As listed by the Ohio Department of Commerce as part of Prevailing Wages)  
 These payroll costs are included in the 38% mark up allowed on labor.

Work Class	H & W	Pension	Apprenticeship Training	Annuity	Vacation	E&S
Laborer	X	X	X			
Operating Engineer	X	X	X			Note 1
Ironworker	X	X	X	X	Note 2	
Cement Mason	X	X	X	X		
Carpenter	Note 3	X	X	X		
Teamster	X	X				
Painter	X	X	X			
Electrical: Lineman, Groundman, Equipment Operator	Note 4	Note 5	X	Note 6		

See the project proposal prevailing wage provisions for the dollar amount the contract must pay in fringes. If the Contractor claims a higher figure than the listed rate they must submit documentation that supports the higher rate as their normal contract arrangement with their workers.

- Note 1:** E&S is Education and Safety Fund, it is listed on the schedule of Ohio Prevailing Wages for Operating Engineers as “Other”.
- Note 2:** Vacation is a fringe benefit recognized by Dept of Commerce for Ironworkers in Belmont, Guernsey, Harrison, Jefferson, Monroe, and Muskingum Counties. This is required by the contract for Ironworkers Local 549.
- Note 3:** Carpenter Health and Welfare contribution includes their contract required contribution to the United Brotherhood of Carpenters and Joiners of America National Health & Safety Fund and United Brotherhood of Carpenters and Joiners of North America National Apprenticeship and Training Fund. This is identified as National Health /Safety in their contract.
- Note 4:** LINCO, Line Construction Benefit Fund
- Note 5:** NEBF, National Electrical Benefit Fund
- Note 6:** NEAP, National Electrical Annuity Fund

## PAYROLL DUES AND ADMINISTRATIVE FEES REQUIRED BY UNION CONTRACTS

These dues and fees are compensated but no mark up is applied to them according to Section 109 109.05.c.2. 4<sup>th</sup> paragraph (C&MS 2002) the same rule applies to projects under C&MS 1997.

Administrative fees and dues that contractors are required to pay by the Ohio Contractors Association (OCA) contracts with various Labor Unions: Laborers, Operating Engineers, Carpenters, Cement Masons, & Teamsters as shown in their Master Contract .

Work Class	OCA Dues or Administrative Fee	OCIA	Tri-Fund	LECET
Laborer	X	X	X	X
Operating Engineer	X	X		
Carpenter	X	X		
Cement Mason	X	X		
Teamster	X	X		

### Contractor Dues:

Membership dues based on payroll paid to the Ohio Contractors Construction Association for negotiating and administering labor contracts by OCA members. Non-OCA Contractors under the OCA-Union contracts pay the Administrative Fee below.

### Administrative Fee:

Required of Contractors covered by the Union contract but not OCA member.

**Note:** A Contractor will pay either OCA Dues or the Administrative Fee but not both.

### OCIA , Ohio Construction Information Association:

An association of Labor, Contractors, and business groups that are concerned with the condition of Ohio's public infrastructure. They research Ohio infrastructure issues and inform the public of infrastructure needs.

### LECET, Laborers-Employers Cooperation and Education Trust:

Labor-Management cooperation fund established in accordance with Section 302(c)(9) of the Taft-Hartley Act.

### Tri-Fund, LIUNA:

Labor-Management cooperation fund established in accordance with Section 302(c)(9) of the Taft-Hartley Act.

## **IRONWORKERS FEES**

Ironworkers are not covered by the OCA-Union Contracts. They are covered by the Association of General Contractors (AGC) contract with the Ironworkers Union. The fees that are paid by the contractor for Ironworkers are:

### **Construction Advancement Fund :**

This fee is paid to the AGC for negotiating and administering the contract with the Ironworkers.

### **IPAL:**

This fee is paid to the Ironworkers Political Action League. Compensation for this Contractor expense is allowed on Federal-aid projects because the FHWA Division Office has judged that proposal note "Limitation of Use of Contract Funds for Lobbying" is not violated because the IPAL is primarily to support Ironworkers apprentice program and is only incidentally used for lobbying and political action.

## **ELECTRICAL WORKERS FEES**

The International Brotherhood of Electrical Workers (IBEW) contracts apply to several electrical contractors who work on ODOT projects. The work classifications involved are Lineman, Groundman (some areas this is Groundman/Trucker), and Equipment Operator. These contractors are required to pay the following fees that are required under the IBEW contracts with the National Electrical Contractors Association (NECA).

### **Electrical Contractors Administrative Fund (ECAAF):**

This is a fee paid to the local NECA chapter for negotiating and administering the IBEW-contract on behalf of the member contractors. There are several NECA chapters in Ohio: Central Ohio (Columbus), Cincinnati, Greater Cleveland, North Central (Akron), Ohio/Michigan (Toledo & northwest Ohio), Penn-Ohio (Youngstown), and Western (Dayton). This payroll fee is paid by all contractors who employ workers covered by the various IBEW contracts.

### **National Electrical Industry Fund (NEIF):**

This is a fund in Washington DC that is used to promote the electrical industry. Contractors who are members of NECA are required to pay this payroll fee.

### **National Labor Management Cooperative Committee (NLMCC):**

This payroll fee is required of all contractors who employ workers covered by the various IBEW contracts.

## **EXAMPLE FORCE ACCOUNT**

## LABOR

			<b>A</b>	<b>B</b>	<b>x</b>	<b>y</b>	<b>f</b>	<b>xA+yB</b>	<b>f(A+B)</b>
Date of Work	Name of Worker	Work Class	ST Hrs	OT Hrs	ST Wage Rate	OT Wage Rate	Fringe Rate	Total Wages	Total Fringes
7/1/03	John Clesse	Foreman Laborer	8	2	\$25.00	\$37.50	\$7.00	\$275.00	\$70.00
7/1/03	Eric Idle	Laborer	8	2	\$20.00	\$30.00	\$7.00	\$220.00	\$70.00
7/1/03	Mike Palin	Operator	8	2	\$30.00	\$45.00	\$9.50	\$330.00	\$95.00
<b>Total:</b>								\$825.00	\$235.00

(1)	38% Mark Up on Wages & Fringes:	0.38 x (\$825+\$235)	= \$402.80
(2)	Payroll Taxes 21.95% of Wages:	0.2195 x \$825	= \$181.09
(3)	Administrative Fees Charged per Hour of Payroll		
	Laborers	(20 hrs. x \$.29)	= \$5.80
	Operator	(10 hrs. x \$.19)	= \$1.90
		<b>Total Labor Costs</b>	<b>= \$1,651.59</b>

Payroll Tax and Government Insurance Premium Breakdown for this example:

FICA (Social Security 6.20% Medicare 1.45%)	7.65%	
Federal Unemployment Insurance	0.80%	(paid on the first \$7,000 of wages)
State Unemployment Insurance	6.50%	(paid on the first \$9,000 of wages)
Ohio Workers' Compensation	7.00%	(premium reductions are credited)
	21.95%	

Longshore & Harborworkers' Compensation and Jones Act 52.50%  
(applicable only for work from or load/unloading a barge or ship)

Administrative Fee Breakdown for this example:

Laborers: OCA Dues \$.14/Hr, OCIA \$.05/Hr, LECET \$.05/Hr, Tri-Fund \$.05/Hr  
Operator: OCA Dues \$.14/Hr, OCIA \$.05/Hr

**Note (1): 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 2002 C&MS and 109.04(a) in the 1997 C&MS. This mark up provides compensation for profit and other expenses specified in 109.05.C.11 in C&MS 2002 and 109.04(f) in C&MS 1997.

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.

**Note (2): Explanation 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.

**Federal Unemployment Insurance 0.8%**

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 0.1% to 6.50%**

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 3.5%.
- 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.
- Contractors who fail to submit their payroll by September 1 are charged 125% of the maximum experience rate. This Delinquency Rate for the year 2002 would be  $1.25 \times 6.5\% = 8.125\%$ , however if the Contractor files the necessary by December 31 then their rate is revised to their appropriate Experience Rate.
- If the Contractor fails to submit their payroll information by December 31, then they are charged 120% of their appropriate Experience Rate as a Penalty Rate. For the year 2002 this would likely be  $1.2 \times 6.5\% = 7.8\%$

For both Federal and State Unemployment taxes, the full rates are compensable if the work is performed on or before July 6 of the year. For work performed after July 6 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 monthly unemployment tax report.

**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.

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.

When there is a significant surplus in the State Insurance Fund, BWC will reduce Contractors' premiums. For the years 2001 and 2002, these reductions have been 75% of the normal premium and must be reflected on the force account. They are announced on the BWC web site. Some large Contractors have a BWC recognized self-insurance program, which do not benefit from BWC premium reductions.

### **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 a 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.

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 15% of Wages Instead of Itemization**

The Contractor may elect to be compensated for payroll taxes at a specified rate of 15% of force account wages. This is specified in section 109.05.C.2. of C&MS 2002 and 109.04(a) of the 1997 C&MS. The Contractor may take this option even when the actual payroll taxes are less than 15%.

Payroll taxes are paid on wages only and not on fringes paid into a benefit program. Some Contractors 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 is properly included in the force account compensation.

**Note (3): 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 the attached Appendix. These are compensable under 109.05.C.2. of the 2002 C&MS on force account without a mark up. The 1997 C&MS does not address this issue, however, compensation without mark up is allowed on projects under the 1997 Spec Book.

The Appendix 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.