U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division

MAY 24 1999

MEMORANDUM NO. 192

TO: ALL CONTRACTING AGENCIES OF THE FEDERAL GOVERNMENT AND CONTRACTING AGENCIES OF THE DISTRICT OF COLUMBIA

FROM: JOHN R. FRASER
DEPUTY ADMINISTRATOR

SUBJECT: Service Contract Act Health and Welfare Fringe Benefit Changes

In accordance with the requirements of section 4.52 of Regulations, 29 CFR Part 4, the prevailing health and welfare fringe benefits issued under the McNamara O'Hara Service Contract Act (SCA) will be increased on June 1, 1999. As prescribed by the phase-in schedule provided in section 4.52(b), the current fringe benefit rate of $1.39 per hour will be increased by one-half of the difference between the current rate and the total benefit amount derived from the latest Bureau of Labor Statistics Employment Cost Index (ECI) summary of Employer Costs for Employee Compensation. Applying this methodology (one-half of the difference between $1.39 and $1.87), produces a **new SCA health and welfare single benefit rate of $1.63 per hour or $65.20 per week or $282.53 per month.**

Solicitation/Contracts Affected

All Invitation for Bids opened, or other service contracts awarded on or after June 1, 1999, must include an updated SCA WD issued in accordance with the regulatory health and welfare fringe benefit determination methodology. In order to facilitate processing of solicitations that currently contain WDs with the $1.39 per hour benefit level, contracting agencies may make pen and ink changes to effect the fringe benefit rate increases on the WDs that have been issued for the procurement rather than await receipt of a revised WD with the new fringe benefit rate.

Wage Determinations for the State of Hawaii

Under section 2(a)(2) of the Service Contract Act, fringe benefit payments that are required by state law may not be used to satisfy the employer's fringe benefit obligations. In Hawaii, most employers are required by law to provide health insurance coverage for their employees. Therefore, employer contributions that are made to satisfy the employer's obligations under the Hawaii mandated pre-paid Health Care Act may not be credited toward meeting the contractor's obligations under SCA. The SCA WD's have addressed this issue in the past by excluding the health insurance portion. The current Hawaii benefit level is being phased-in in the same manner as all other benefits throughout the United States. Currently, most Hawaii WD's specify a health and welfare benefit amount of $.48 per hour.

Consistent with past practices, and in recognition of the fact that Hawaii law requires employers to provide health care coverage for most employees, SCA WD's for Hawaii will continue to exclude the health insurance portion of the benefits for all employees on whose behalf the employer provides benefits pursuant to the Hawaii prepaid Health Care Act. It has recently come to our attention, however, that employers are not required to make and in fact do not make in some instances contributions for certain employees under the Hawaii law, and the reduced fringe benefit level is not appropriate for these employees. Therefore, effective June 1, 1999, the new SCA health and welfare fringe benefit rate for Hawaii will be:

> **$.68 per hour for all employees on whose behalf the contractor provides health care benefits pursuant to the Hawaii prepaid Health Care Act. For those employees who are not receiving health care benefits mandated by the Hawaii prepaid Health Care Act, the new health and welfare benefit rate will be $ 1.63. For information regarding the Hawaii prepaid Health Care Act, please contact the Hawaii Employers Council; P.O. Box 29699, Honolulu, HI 96820-2099; telephone number 1-808-836-1511.**