

Prevailing Wage Survey

Results and Takeaways

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Session Objectives

- Overview of compliance landscape
- Review prevailing wage survey results
- Comparison with previous results
- Discuss key concerns from the survey
- Review compliance issues identified
- Suggest opportunities and best practices
- Explain proper methodology for calculations

Increased Compliance Enforcement

- Significant budget increase request in 2015
- Hired hundreds more auditors in FY 2015
- Hiring 300 new auditors in 2016
- 300 of 305 new employees will be investigators/auditors
- “Law Enforcement Organization”
- Directed Investigations
- Auditors are using sweeps; general contractors are liable for every tier of subs

Common Cited Violations

- Misclassification of laborers and mechanics
- Failure to pay full wage for all hours worked
- Inadequate recordkeeping
- Overtime crediting
- Failure to maintain apprenticeship docs
- Certified payroll errors and timing issues
- Apprentice ratios (both ways)

Who responded to the survey

- Only contractors performing PW work
- 838 contractors
- 669 completed full survey
- Largest responses from AL, CA, MD, MI, PA, WA, WI
- Responses by members from every chapter

How long have they performed PW work

- Just started 1%
- 1-5 years 10%
- 5-10 years 13%
- More than 10 years 76%
- Fewer new market entrants than 2011 survey

Percentage of Annual Volume

- Companies performing PW work exclusively 16%
- Companies performing 80-90% PW work 22%
- Companies performing 40-70% PW work 32%
- Companies performing 30% or less PW work 30%
- Most companies work a mix of public and private

Annual Volume Breakdown

- 83% perform some state work
- 69% perform some federal work
- 73% perform some municipal work

Volume Trends

- 25% saw a volume decrease
- 39% had consistent volume
- 34% had a volume increase
- 3% are new to the market

Multi-state Work

- 41% work in multiple states
- 59% work in just one state

Reconciling Differences

- Contractors report moderate difficulty with balancing between multiple states and federal rules
- Wide variance in difficulty depending on the state
- Biggest difficulties
 - Certified payroll
 - Fringe credits
 - Overtime

Impact on Pursuit of Work

- Moderate impact on pursuit of work
- Not a deterrence for larger contractors

Proposed Blacklisting Regulations

- 67% were unaware of the proposed law
- Extremely important for DB contractors
- Maury's webinar is available

Impact on Administrative Costs

- 23% estimate the cost increase is more than 20%
- Over 90% of contractors see an increase in admin costs
- Biggest driver is certified payroll

Impact on Labor Costs

- 35% estimate the cost increase is above 30%
- Over 95% of contractors see an increase in labor costs
- 80% see labor cost increases of more than 10%
- Cash is not king

Wage Determination Surveys

- Have participated
 - Federal 16%
 - State 24%
 - Municipal 8%
- 7% do not know what the wage survey is

Wage Determination Surveys

- Impact depends on state law
- Good opportunity to get involved
- Legitimate reasons to skip
- DOL requesting ABC assistance

Most Challenging Issues

- Wage differentials with private work
- Correctly utilizing Fringes
- Audits and compliance
- Classifications
- Profitability- always the biggest concern

Dipping into the Base

- 18% dip
- 30% unaware that they can
- State vs Federal difference
- Very clearly allowed

Repeal/Reform

- Heavy support for reform
- Strong support for repeal
- 14% want the laws maintained

Benefits Offered

- Health Insurance
- Vacation/holiday
- Ancillary Benefits
- Traditional retirement
- Prevailing wage retirement bucket
- SUB

Taking Credit

- 21% take no credit
- 49% credit retirement
- 67% credit health
- 53% credit vacation/PTO
- Many complaints on the confusing credit rules

Fringe Credit Concerns

- Sub's out of compliance
- Correct accounting
- Audit trail
- Data accessibility

What to do in an Audit

- Attorney is most popular
- Maury Baskin
- Accountants
- Call ABC
- Call service provider
- Easier to prepare on front end

Employer Decides How to Satisfy the Wage Obligation

Contractors typically pay the “base” amount in cash and then choose how to pay the “fringe” portion:

1. For vacation and holidays;
2. Into an approved apprenticeship program;
3. Furnish “bona fide” fringe benefits; or
4. As cash, and have it treated as wages

Cash is not King

All cash wages subject to payroll burden:

FICA	7.65%
FUTA & SUTA*	2%
General Liability*	2% - 15%
Workers' Comp*	5% - 30%

The actual payroll burden can be 11%-40%
This increases your labor costs

*varies by company & state

How It Works...

Pay Fringe in Paycheck

Base Wage	\$41.30
Fringe	<u>\$ 13.65</u>
Total Wage	\$54.95
Payroll Burden (20%)	<u>\$ 10.99</u>
Bid Cost	\$65.94

Pay Fringe to “Bona Fide” Plan

Base Wage	<u>\$41.30</u>
Total Wage	\$41.30
Payroll Burden (20%)	<u>\$8.26</u>
“Bona Fide” Plans	<u>\$13.65</u>
Bid Cost	\$63.21

**\$2.73/hr
savings per
person**

Annualization Principle

- Applies to benefits of a continuous nature (*e.g.*, health insurance, defined benefit pension plans)
- Determine hourly rate of contribution that is creditable toward contractor's Davis-Bacon prevailing wage obligation by:
 - Dividing the total annual contributions by the total annual hours worked (both Davis-Bacon and non-Davis-Bacon work); and
 - Allocating fringe benefit credits so that Davis-Bacon work is not be used to fund benefits on private (non-Davis-Bacon) work

Allowable Fringes

Health Insurance

- Davis-Bacon allows credit against the fringe for health insurance
- Payment must be made directly to the insurance company or a third party or trust
- HRA, HSA and Gap plans are allowable fringes as long as they meet the vesting requirements
- Wellness programs and smoking cessation plans can be considered a bona fide fringe if they meet the outlined standards

Allowable Fringes Ancillary Benefits

- Dental insurance
- Vision insurance
- Hearing insurance
- Employee Assistance Programs (EAP)
- Disability insurance (Short-term and long-term)
- Life insurance
- Critical Illness and accident plans

Allowable Fringes Retirement Plans

- 401K
- Money Purchase
- Simple IRA
- ESOP (Under very specific circumstances)
- Profit-sharing plan
- Traditional pension plan

Retirement Plan Considerations

- Exempt from annualization with essentially immediate vesting
- Utilize *Schedule A** to “discriminate”
- Credit based on actual contributions made
- May turn on and off at any time**
- Plan design can be specific to your circumstances:
 - **“The Boost”** - Helps increase HCE contributions
 - **“The Offset”** - Use fringe to satisfy profit sharing and save more money!

* Unique to the FBG retirement plan document

** Where an exemption from annualization exists



Prevailing Wage Retirement Plan Must Have:

- Immediate eligibility and immediate entry
- NO last day of plan year employment requirement
- NO minimum hours requirement to receive contribution
- Immediate 100% vesting (or essentially immediate)
- Contributions no less often than quarterly

Allowable Fringes

Supplementary Unemployment Benefits (SUB Plans)

- Exempt from annualization...maybe
- Exempt from FICA
- Can only disburse when employee is laid off
- Appropriate only for contractors with consistent downtime
- Employees receive 1099
- Includes federal income tax withholding

Allowable Fringes

Vacation/Holiday/PTO

- Generally considered an unfunded plan
- Best practice is to segregate the funds
- Must comply with the following:
 - Reasonably anticipated to provide benefits
 - Financially responsible plan
 - Legally binding agreement
 - Communicated in Writing

Allowable Fringes

Apprenticeship Programs

- Bona Fide apprentice program
 - Recognized by the State Agency approved by ETA
 - Recognized directly by ETA
- Only costs actually incurred
- Trade specific
- Tuition, books, tools and materials



Calculating Benefit Credit for Group Medical Ancillary Benefits and PTO

- Take the annual employer cost
 - Divide by 2,080 hours per year*
 - Give hourly equivalent
- Concern is overtime hours, over-funding the benefit
- Alternative is to pay for benefits by hours worked

*varies by state and actual hours worked

Hour Banking

- Creates one per hour rate for all medical and ancillary benefits
- Simplifies and streamlines accounting and reporting
- Reduces complexity around taking proper fringe credit and certified payroll reporting
- Alleviates volatility in workforce coming on and off of benefit; improving employee relations
- Accommodate the challenges of seasonality
- Reduce COBRA exposure for employees and the employer

Calculating Benefit for Vacation & Holidays

- Davis-Bacon allows credit for Vacation & Holidays Paid
 - Annual cost divided by annual hours (2,080)*
 - Must be vested and pay out on departure
 - Auditors are getting very aggressive

*varies by state

ABC Insurance Trust

Prevailing Wage Expertise

- Compliance assistance available
- Audit support for IRS, DOL, GC, local compliance officer inquiries
- Assist with certified payroll reports, fringe benefit statements, wage determinations, etc.
- Industry experts on staff in Washington, D.C.

About Fringe Benefit Group

- Fringe Benefit Group (FBG) via its core product, The Contractors Plan, has helped thousands of contractors design and administer fringe benefit programs since 1983.
- Through its nationwide network of independent brokers and agents, FBG has established itself as the leader in administering health, welfare and retirement plans for contractors.
- FBG has over 500 ABC member clients as a part of its ABC Business Partnership with The Contractors Plan retirement solution.
- FBG recently became the ABC's 4th Strategic National Partner.

For more information, go to www.fbg.com or www.thecontractorsplan.com.



Need Legal Assistance?

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Thank you!

Questions & Answers

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