

22.406-2 Wages, fringe benefits, and overtime.

(a) In computing *wages* paid to a laborer or mechanic, the contractor *may* include only the following items:

(1) Amounts paid in cash to the laborer or mechanic, or deducted from payments under the conditions set forth in 29 CFR3.5.

(2) Contributions (except those required by Federal, State, or local law) the contractor makes irrevocably to a trustee or a third party under any bona fide plan or program to provide for medical or hospital care, pensions, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life *insurance*, disability and sickness *insurance*, accident *insurance*, or any other bona fide fringe benefit.

(3) Other contributions or anticipated costs for bona fide fringe benefits to the extent expressly approved by the Secretary of Labor.

(b)

(1) The contractor *may* satisfy the obligation under the clause at [52.222-6, Construction Wage Rate Requirements](#), by providing *wages* consisting of any combination of contributions or costs as specified in paragraph (a) of this subsection, if the total cost of the combination is not less than the total of the basic hourly rate and fringe benefits payments prescribed in the wage determination for the classification of laborer or mechanic concerned.

(2) *Wages* provided by the contractor and fringe benefits payments required by the wage determination *may* include items that are not stated as exact cash amounts. In these cases, the hourly cash equivalent of the cost of these items *shall* be determined by dividing the employer's contributions or costs by the employee's hours worked during the period covered by the costs or contributions. For example, if a contractor pays a monthly health *insurance* premium of \$112 for a particular employee who worked 125 hours during the month, the hourly cash equivalent is determined by dividing \$112 by 125 hours, which equals \$0.90 per hour. Similarly, the calculation of hourly cash equivalent for nine paid holidays per year for an employee with a hourly rate of pay of \$5.00 is determined by multiplying \$5.00 by 72 (9 days at 8 hours each), and dividing the result of \$360 by the number of hours worked by the employee during the year. If the interested parties (contractor, *contracting officer*, and employees or their representative) cannot agree on the cash equivalent, the *contracting officer shall* submit the question for final determination to the Department of Labor as prescribed by agency procedures. The information submitted *shall* include-

(i) A comparison of the payments, contributions, or costs in the wage determination with those made or proposed as equivalents by the contractor; and

(ii) The comments and recommendations of the *contracting officer*.

(c) In computing required *overtime* payments, (*i.e.*, 1 1/2 times the basic hourly rate of pay) the contractor *shall* use the basic hourly rate of pay in the wage determination, or the basic hourly rate actually paid by the contractor, if higher. The basic rate of pay includes employee contributions to fringe benefits, but excludes the contractor's contributions, costs, or payment of cash equivalents for

fringe benefits. *Overtime shall* not be computed on a rate lower than the basic hourly rate in the wage determination.

Parent topic: [22.406 Administration and enforcement.](#)