



PACTTM

Price Adjustment Calculation Tool

USER'S GUIDE

Service Contract Act &
Fair Labor Standards Act

PRICE ADJUSTMENTS

FAR 52.222-43 /44, 32

OCTOBER 2010

FOREWORD: TO GOVERNMENT AND CONTRACTOR OFFICIALS . 4

COMMON ABBREVIATIONS USED THROUGHOUT PACT:.....4
IT’S NOT THAT SIMPLE4
WHY THE NEW PROCESS?.....4
A PRICE ADJUSTMENT IS NOT AN REA.....5
SUBCONTRACTOR APPLICABILITY5

GOVERNMENT..... 6

WHAT PACT CANNOT DO6
1. DETERMINE ELIGIBILITY FOR PRICE ADJUSTMENT6
2. CONTRACT MODIFICATION7
3. UNIT PRICING7
4. OUT-YEAR CALCULATIONS7
5. LOADED RATES.....7
6. ESCALATED PRICING7
WHAT PACT WILL DO.....8
I. WAGE DIFFERENCE8
a. Previous Required, New Required and Actual Wages8
b. Negative Entitlement9
c. Exempt vs. Non-Exempt.....9
1. MAN-HOURS9
A. FORWARD PRICING10
B. ACTUAL PRICING.....10
II. ACCOMPANYING COSTS10
a. Social Security and Medicare Contributions (FICA)10
b. Workers Compensation Insurance (WC).....11
i. Background:.....11
ii. Is WC a valid accompanying cost entitlement?11
iii. Calculating WC as an accompanying cost12
c. Unemployment Insurance (or “tax”)14
i. Federal Unemployment Tax (FUTA)14
ii. State Unemployment Tax (SUTA).....14
III. H&W FRINGE BENEFITS15
a. The Importance of Old, New and Actual Rates15
b. Hours for H&W Entitlement: Odd vs. Even methods16
c. H&W Calculations for Odd Numbered WDs16
Hour Type Code (HTC) Treatment Under.....17
ODD Numbered Standard WD-table17
d. H&W Calculations for Even Numbered WDs.....17
Hour Type Code (HTC) Treatment Under Even Numbered standard
WD-table.....18
e. H&W Calculations for Collective Bargaining Agreement WDs18
IV. HOLIDAYS & VACATION20
a. General Entitlements.....21
Vacation or Holiday Above and Beyond WD Requirement (also applies
to CBAs):21
EXAMPLE22
b. Part Time or Temporary Employees23
c. Increased Number of Holiday or Vacation Hours Required by the WD23

EXAMPLE:.....	24
V. OTHER MISCELLANEOUS WD PROVISIONS	24
a. Shift Premium.....	25
EXAMPLE:.....	25
b. Paid Time-off (PTO)	26
c. Bereavement Pay	26
d. Jury Duty	26
e. Sick Leave.....	26
f. Overtime (OT)	27
g. Uniforms or other reimbursements for company expenses	27
UNDERSTANDING THE HOUR TYPE CODE (HTC) TABLE	27
Figure: HTC Lookup Table Explanation	28
SUMMATION.....	28
CONTRACTORS.....	29
PACT CONTRACTOR SUBMISSION FORMAT (CSF)	29
I. KEY FEATURES:.....	29
a. Standardized:	29
b. Comment Flags:.....	29
c. Color coding:	29
d. No Employee Payrolls Required at Time of Submission:	30
e. Validation, Formatting and Locking buttons:	30
f. Acronym Guide:	31
II. BASIC TAB DESCRIPTIONS:	31
a. Instructions Rates and Factors Tab (worksheet):.....	31
1. H&W Components:.....	31
2. Hour Type Codes (HTC):.....	31
Example:.....	31
Example:.....	31
b. Contractor Wages, H&W:	32
1. Raw, Aggregate Data:	32
2. Why Break It All Out	32
III. COMMON TERMS FOR CLARIFICATION:	34
IV. USING THE CSF IN A CBA WD	34
Example Scenario:	35
V. SPECIFIC REGULATORY GUIDANCE:	37
a. FAR 52.222-43/44	37
b. The Navy Desk Guide for Service Contract Price Adjustments.....	37
c. 29 CFR Part 4 Subpart D:	37

FOREWORD: TO GOVERNMENT AND CONTRACTOR OFFICIALS

Common Abbreviations used throughout PACT:

CBA=Collective Bargaining Agreement

CFR= Code of Federal Regulation

CSF= Contractor Submission Format

DBA=Davis-Bacon Act

DOL= Department of Labor

FAR= Federal Acquisition Regulation

FLSA=Fair Labor Standards Act

H&W= Health and Welfare

PACT=Price Adjustment Calculation Tool

SCA=Service Contract Act

WC=Worker Compensation Insurance

WD= Wage Determination (a controlling WD may be a CBA therefore this term may apply to both a Standard WD or a CBA)

It's Not That Simple

On its face, determining the amount of a Service Contract Act (SCA) price adjustment seems simple enough. Obtain a copy of the new SCA WD (WD), compare it to the old SCA WD, and calculate the difference. No problem, right? Not so fast.

As with most money matters, *it's not that simple*. There are several key elements that go into such a calculation that are more complex than you may think. Also, the “how to” of such calculations are not well defined within the FAR or DFARs and therefore can present some serious challenges in the process of determining the correct amount of entitlement using the combined legal requirements of the SCA/FLSA price adjustment clauses, FAR 52.222-43/44 and the regulatory mandates in 29 CFR Part 4 Subpart D. Together this body of law dictates WHAT is required in a price adjustment; not HOW to execute one. Additionally, contracting has evolved into some very complex structures wherein both construction and services are performed under the same contract. In these “combination contract” scenarios, contractors and contracting officers have an entirely separate set of regulatory requirements and a consequent separate calculation of price adjustment entitlement, for just a subset of their records, under the Davis-Bacon Act-Price Adjustment (Actual Method) (DBA) in FAR 52.222-32.

Why the New Process?

Prior to the development of this tool– Price Adjustment Calculation Tool or PACT for short –these regulations have rarely been combined to create a full picture of what a price adjustment should be; particularly for complex contracting scenarios. Policy driven guidelines, while helpful in establishing an interpretation of the intent and requirement of this body of law have fallen short in effectively guiding contracting professionals in the practical execution of these requirements. Yet, understanding and adherence to these prescriptive regulations is a fundamental legal requirement in price adjustment execution. PACT has been specifically designed to address that need, by enabling and facilitating the requisite understanding and adherence in a step-by-step, *execution driven process*. It is the answer to the “how to” question that has been

lacking in the guidance of the past. Beyond that, the process that PACT defines has been automated for rapid, and uniform execution of that process.

That's why PACT has been developed. It will help contracting officers to more accurately, efficiently and uniformly interpret and apply the regulations to determine the correct and proper amount of a contractor's entitlement under the FAR 52.222-43/44, 32 clauses and 29 CFR 4 Subpart D. Arguably the greatest benefit is that PACT will help contractors and contracting officers by defining and standardizing the proposal submission requirement for long term economies of scale, and consistency within the interpretation and application of the law.

Make no mistake, PACT will not *think* for you. A price adjustment will always require careful scrutiny of the myriad of factors that go into determining appropriate eligibility for price adjustment under the clauses. PACT is a method (and a fully referenced explanation of that method) by which to gather the required data from the contractor, automatically calculate the entitlement with the information submitted, and organize it into the meaningful categories for analysis of allowability and scrutiny of each economic factor. A contracting officer will still have to understand, and apply the fundamental requirements of the law in their analysis of the results that PACT calculates and organizes for them.

A Price Adjustment Is Not An REA

Also, a brief word about what an SCA price adjustment is *not*. Despite many contractors referring to their proposals for an SCA price adjustments as “equitable adjustment”, or request for equitable adjustment (REA) proposals, they are *not* the same. This is not simply a matter of semantics – this is a very important distinction to make because the standard of review, analysis and approval of the contractor's pricing proposal request are quite different. The “fair and reasonable” standard that is used to analyze proposals under equitable adjustments (FAR 15.404) is very different from the highly prescriptive analysis of proposals under the SCA Price Adjustment clause, FAR 52.222-43/44, 32 and 29 CFR 4 Subpart D. For example, the fair and reasonable standard used under the proposal analysis methods of FAR 15.404 often allow for general and administrative expense, overhead and/or profit; whereas the FAR 52.222-43/44, 32 standards of review explicitly exclude all three such costs. The intent of the SCA price adjustment clause is to allow for a *specific and limited exception to the fixed price contract model* when the government causes unexpected labor costs to fall upon the contractor by a change to the SCA WD(s) contained in the contract. It is not a simple modification.

Subcontractor Applicability

These price adjustment principles will apply not only to the prime contractors that directly employ ‘service employees’ under their contract, but will also apply to any subcontractors using ‘service employees’ that are likewise subject to the SCA WD requirements. However, any proposals by a subcontractor must be sponsored and endorsed by the prime contractor and must be supported and documented by the payroll records and related information of individual subcontractors. The adjustment will be made to the price of the contract and the prime contractor must then arrange and administer any adjustments to the price of any and all subcontractors.

GOVERNMENT

PACT is a powerful calculation tool developed by execution level contracting professionals in conjunction with labor policy experts to accurately calculate a contract price adjustment involving even or odd numbered Standard SCA WD's and most Collective Bargaining Agreements (CBAs) for firm fixed price contracts. Field testing has proven that use of PACT significantly streamlines the price adjustment process. That said, the first point of note is that PACT is only as good as the data you put in it. "Garbage in, garbage out". It is absolutely incumbent upon contracting professionals to closely scrutinize the contractor submission. PACT will enable you to do that with easy to use, step-by-step buttons that walk you through, in a narrative format, the myriad of calculations, and analysis that PACT has already performed. It will also explain and provide hyperlinked references for WHY it performed the calculations the way it has. Many factors are visually highlighted to help draw you to important areas to analyze. Comments are heavily utilized to explain the contents of columns.

The second point of note that naturally follows is: PACT won't help you if you don't use the buttons and read the explanations and comments about how to validate and understand your data. PACT does the heavy lifting of correctly combining the factors, according to the law and calculating entitlement with the information it's given. However, price adjustment execution, just like any other contract modification which impacts the price of a contract will always require an astute contracting professional to diligently review the results of the calculations. Different from any other modification though, the contracting officer is also required in FAR 52.222-43/44 to perform payroll checks to make meaningful comparisons with the contractor's proposal and validate that the submission is consistent with the actual payroll of the employees.

What PACT Cannot Do

Before you engage PACT to properly calculate your price adjustment, it may be equally important to point out what PACT *cannot* do for you.

1. Determine Eligibility for Price Adjustment

The language of the price adjustment clause in FAR 52.222-43 (d) makes it clear that an entitlement exists only when there is a causal relationship between compliance with the new SCA minimum rate ("made to comply") and the contractor's increased costs ("the contractor's actual increase"). Refer to sections 1 and 2 of the Navy Desk Guide and FAR 22.107 for a more detailed explanation when a new WD should be incorporated into a contract, thereby creating this causal relationship. FAR 22.1008-2 (c) (1) is crucial to understand if there is an incumbent contractor that inherits the economic terms of a collective bargaining agreement, or if a new collective bargaining agreement becomes controlling for WD purposes. 29 CFR 4.163 (a) and the above referenced FAR sections must be understood in order to determine if consideration under a price adjustment is appropriate.

2. Contract Modification

PACT does not execute a contract modification for you. It simply helps you arrive at the correct dollar value of the price adjustment under the clauses. Often, this will be the dollar value of the modification. PACT will also break down the entitlement by contract line item (as well as a variety of other meaningful ways) to assist you in the analysis and funding process. It is a stand alone file that will support the modification price and business clearance documentation.

3. Unit Pricing

Pre-priced IDIQ line items of a contract are increasingly prevalent in today's contracting structures. For instance: a line item to paint 500 square feet of interior wall space. In the price for this line item is material, equipment, travel to the site, potentially a non-productive hour loading of the labor rate, G&A, overhead, and profit, etc... For an SCA price adjustment, only the "bare" labor rate is entitled to increase. Not each of the other factors. Not necessarily even the *loaded* labor rate. If the new WD raises this painter's wage by 5%, a contracting officer would not be acting in accordance with the law to raise the entire unit price by 5%. By doing so, they would be applying the increase to factors prohibited by FAR 52.222-43/44, 32.

Currently, PACT does not accomplish unit pricing. After hourly "bare" rate entitlements are calculated by PACT, a contracting officer will have to reconstruct the unit pricing around the new rate. Every unit price scheme may be different making it difficult to automate this task.

4. Out-Year Calculations

PACT does not re-price the out-years on your contract. It will still be the job of the contracting officer to take the new values for each line item, and apply the increases to the impacted out-years of the contract for the modification. The calculations PACT produces form the basis of price increase that will be applied to out-year line items.

5. Loaded Rates

PACT will not produce an accurate entitlement if the rates are "loaded" or "burdened". PACT will arrive at the correct entitlement when productive and non-productive hours are reported and coded on separate lines of data, with the correct hour type, at the unburdened rate. WC insurance and FICA are "re-loaded" onto the new unburdened rate as accompanying costs to the increase. This method is explained in detail in the contractor submission format (CSF), and examples are included in the blank submission form that the contractors are given. For a better understanding of the categories hours may fall into, see the Hour Type Code (HTC) tables in the H&W section of this guide.

6. Escalated Pricing

PACT will not arrive at a correct entitlement if your contract already has escalated pricing where labor is a component of the escalation factor. The implied intent of FAR 52.222-43 (b) is that a contractor will not receive double payment for already escalated pricing at the time of the price adjustment. Nevertheless, SCA contractors with escalated price schedules, still request price adjustments. If your contract includes an escalated price schedule, you will need

to obtain a break-down of components and percentages (or flat rates) included in the escalation factor (usually found in the award documentation) before you try to utilize PACT. *If SCA labor is included in the escalation, each labor category increase caused by the new WD must then be compared to the awarded labor escalation factor to determine if any entitlement exists.* Again, this comes back to FAR 52.222-43 (b). **Note: this can be a lengthy process that must be performed on each labor category to arrive at an accurate entitlement.*

What PACT Will Do

After you've determined that your contractor is legitimately entitled to price adjustment under FAR 52.222 43/44, 32 reviewing the remainder of this guide will summarize the basic elements and principles upon which the embedded formulas of PACT are based. Specifically, those elements are as follows:

I. Wage Difference

If there is a wage differential between the SCA minimum wage rates required in the prior period of performance and the SCA minimum wage rates required in the new period of performance, then an adjustment must be *considered*. Consideration of entitlement to a price adjustment on this basic element, however, still requires a thoughtful measurement of subordinate components as follows:

a. Previous Required, New Required and Actual Wages

What rate of pay is *actually* paid by the contractor immediately prior to the effective change to a new SCA minimum rate of pay? As shown in the explicit example contained in the SCA price adjustment clause FAR 52.222-43 (d), if the contractor is paying more than the SCA minimum in the prior period of performance, this will have a direct effect on the amount of entitlement to a price adjustment. The rule can be stated: "Price adjustment entitlement shall be the difference between the new required rate minus the old required rate OR the new required rate minus the actual rate, whichever is LESS." This logic is taken directly from the wording "the contractors actual increase" in FAR 52.222-43 (d).

EXAMPLE

Assume these facts:

If immediately prior to the new SCA minimum being effective under the contract;

- ✱ the old SCA minimum wage is \$10 per hour
- ✱ the new SCA minimum wage is \$11 per hour
(a difference of \$1 per man-hour)
- ✱ the contractor was paying employees, \$10.50 per hour

RIGHT: The contractor's entitlement is \$.50 per hour

WRONG: The entire \$1.00 per hour difference between the old SCA minimum and the new SCA minimum.

In any event, the contractor will never be entitled to more than the difference between the old SCA minimum rate and the new SCA minimum rate -- \$1.00 per man-hour in the example used in this discussion. That can be looked at like a ceiling. An amount greater than that shows that the contractor was not in compliance with the old SCA minimum in the prior period of performance. Any liability for compliance is solely that of the contractor and enforcement is the responsibility of Department of Labor (DOL) and is therefore not compensable for price adjustment under FAR 52.222-43/44, 32.

b. Negative Entitlement

Although rare, it is possible that the "entitlement" could be negative. In other words, the price could go down if the new SCA minimum is less than the old SCA minimum and the contractor *voluntarily* decreased rates paid to employees.

c. Exempt vs. Non-Exempt

Which job classifications are used to perform the contract services required by the contract? Only non-exempt service employees that are used to perform the specific services required by the contract are subject to SCA minimum wage standards. Exempt personnel such as salaried project management and professional level personnel are not subject to WD requirements. Therefore, the contractor is *not* entitled to an adjustment for any employees that are exempt under 29 CFR, Part 541 or any employees that are not actually performing contract services as more fully discussed in 29 CFR 4.153. PACT addresses this in Step 1 of the "Analysis Wizard"- "Preliminary Contractual Checks". On the tabs marked "Labor Classifications", and "Labor Class Analysis" you will find discussion with hyperlinked reference, an example, a decision tree and drill downs for related definitions and validation procedures.

1. Man-hours

Of course, if there is a wage differential (or fringe benefit differential), that number must be multiplied by an appropriate number of man-hours to arrive at the contractor's correct entitlement amount. This calculation must be similarly performed for each job classification. What should be used to determine the

correct number of man-hours? This *number of hours* is the highest impact factor in the computation of entitlement. A close second is the *type of hours* included in the request. Close attention must be paid during the payroll check process, in the validation of these totals and categorizations of hours.

a. Forward pricing

In most circumstances price adjustments are and should be based upon a “forward pricing” methodology for which the man-hours that will be used in the new period of performance must be estimated. Since SCA price adjustments are almost always based upon moving to a new period of performance such as a new option period or sometimes a more limited contract extension (referred to in FAR 52.222-43/44, 32 as “the renewal option period”), the number of man-hours used by the contractor in the prior period of performance is the best indicator of what should be used for the new period of performance and this becomes the correct “multiplier”. The number of man-hours estimated in the contractor’s original contract proposal is less accurate than actual hours expended in the previous period of performance. When this forward pricing method is used, the contractor’s payroll data for the most recently completed period of performance should support the estimated man-hours that will be used as the multiplier. For further guidance on this method, refer to the Desk Guide for Service Contract Price Adjustments, 4.2 Computations Based on Projected or Actual Labor Costs.

b. Actual Pricing

Also, there are circumstances where *actual* pricing methods may be more appropriate for use. In those cases, the price should be adjusted only after the new period of performance has been completed and then man-hours may be determined with 100% accuracy by reviewing payroll data of the period of time in question. Again, section 4.2 of the Desk Guide for Service Contract Price Adjustments contains information to use in determining which methodology (actual or projected) to use.

II. Accompanying Costs

The contractor also incurs “accompanying costs” of wage increases and any H&W benefits paid to the employees in “cash”. These accompanying costs are limited by FAR 52.222-43/44, 32 to three specific items -- social security taxes, WC insurance payments, and unemployment taxes. The clause explicitly *excludes* any general and administrative expenses, overhead or profit from being added to the total price increase. When making the decision as to what is allowable as costs accompanying the wage changes, the following sub elements should be considered:

a. Social Security and Medicare Contributions (FICA)

Each additional \$1 of wages paid by the contractor also causes additional liability of social security taxes and Medicare contributions. This tax is paid by both the worker and the employer (50% each). Only the employer’s portion of this tax is borne by the contractor and therefore only that portion of the tax is a properly reimbursable entitlement under FAR 52.222-43/44, 32. The amount of the tax is established by law and currently it is 7.65% (.0765) of wages paid.

Some contractors will show this as two separate items on their SCA price adjustment proposals, 6.2% (.062) for Social Security and 1.45% (.0145) for Medicare contributions, also known as FICA (Federal Insurance Contributions Act). These percentages will change only by an Act of Congress and signed into law and will no doubt be well publicized. Bottom line – if the contractor’s proposal contains such costs exceeding 7.65%, it should not be allowed. This percentage is not a required element on the PACT Contractor Submission Format (CSF) in order to prevent misapplication of the cost across other elements of the proposal. PACT simplifies this element of entitlement by “hard-coding” that percentage into the calculations and properly applying it to the applicable wage and cash fringe increases. However, though this cost is not visible on the CSF, contractors may and should include this in their request for price adjustment that accompanies the CSF.

b. Workers Compensation Insurance (WC)

The first point of note on this section is that PACT calculates the WC impact on the price adjustment once the appropriate rate is determined (if any). Bear in mind that *each labor category* could potentially have a different WC insurance rate. The job of the contracting professional, in regard to this portion of the price adjustment process, is to: 1. Validate that WC insurance is entitled to price adjustment for the state where the contractor is performing, and 2. Verify the rate(s) in the proposal with all of the following factors in mind.

i. Background:

Most states require employers to insure against on-the-job injuries and/or chronic health care expenses.

Minimum levels of coverage must be purchased in order to satisfy state WC insurance requirements. These state mandated insurance requirements are generally satisfied by the purchase of a WC insurance policy from a private sector insurer. There is *not* any “one size fits all” rate for WC insurance and the rates vary significantly depending generally upon two factors discussed in the box to the right.

UNDERSTANDING WC RATES:

WC rates are determined by:

- ✦ (1) the job classification in which the employees are performing and
- ✦ (2) the “experience” rate, which is based upon the number of on-the-job injuries and claims which the individual contractor has experienced.

If the employees are performing inherently dangerous work and the contractor has experienced a high level of on the job injuries, the rate will be higher.

ii. Is WC a valid accompanying cost entitlement?

In some states WC insurance requirements are based on a *flat* hourly rate, not as a *percentage* or “per \$100” rate. For instance, 2 cents for every hour worked vs. 3% of wages and cash fringes for every hour worked. In flat hourly rate instances, a price adjustment for *WC insurance “accompanying costs” (of wage increases)* would *not be allowable* since the SCA or FLSA wage increase would not cause a corresponding increase in the contractor’s WC insurance costs.

FLAT RATE vs. % of HOURLY PAY

- ✦ **FLAT HOURLY RATE States**(i.e. 2 cents/hour)
 - ***NEVER any WC entitlement in SCA price adjustment***
 - ***NO CAUSAL RELATIONSHIP***
- ✦ **% of hourly pay States**(i.e. 3% of wages and cash fringes)
 - ***WC adjustment allowable on increase only for SCA price adjustment***
 - ***CAUSAL RELATIONSHIP EXISTS***

For further guidance on WC insurance in your state, refer to the link below to access the United States DOL, Office of Workers Compensation Programs. *Do not assume WC insurance is an allowable expense in your price adjustment, simply because there is a column for it on the CSF.* Look for

references to percentage of wages paid (per 100\$) based calculations versus flat rate based calculations. Use the examples above to determine entitlement.

<http://www.dol.gov/owcp/dfec/regs/compliance/wc.htm>

iii. Calculating WC as an accompanying cost

If it is determined in the step above, that there is WC entitlement as an accompanying cost to the price adjustment, the contracting professional will have to validate the rates in the proposal for price adjustment. If there is any question on the rate used in the contractor's SCA price adjustment proposal, the contractor should be requested to provide verifiable

documentation from the state office of WC and/or the contractor's WC insurer.

DIFFERENTIATING THE TWO FACTORS OF WC COST INCREASES:

- ✦ **Total Straight Time Wages and Cash Fringe**
 - If straight time wages and cash fringe increase, WC cost increases
 - **If the contractor WC cost increases because the new SCA WD increased wages and therefore consequently increased WC cost the contractor IS entitled to accompanying WC cost in their price adjustment.**
- ✦ **Specific WC Rate**
 - If WC rate increases, WC cost increases.
 - **If the contractor WC cost increases because the WC rate itself increased, the increased costs were NOT CAUSED by the new SCA WD then the contractor IS NOT entitled to accompanying WC cost in their price adjustment.**

EXAMPLE:

Assume the following facts:

- ✱ The old SCA minimum rate was \$10 per hour
- ✱ the new SCA minimum rate is \$11 per hour
- ✱ the actual rate paid by the contractor in the prior period of performance was \$10.50 per hour.

This scenario would entitle the contractor to a \$.50 per man-hour wage increase.

Not only would the contractor be entitled to the \$.50 per man-hour increase to the wage rate, but they also would be entitled to the WC insurance rate multiplied this same amount as an “accompanying costs” of the wage increase.

In the example above,

- ✱ if the WC rate were 3%,
- ✱ and the employee worked 2080 hours
- ✱ the calculation would be:
2080 hours x \$.50/hour wage increase x .03 WC=**\$31.20**

Also, SCA price adjustments for increases to WC insurance rates are limited to only the *wage (and/or cash fringe) increase* caused by the new SCA WD, on which the rate is paid and *not* the amount of the increase as it affects the *entire wage (and/or cash fringe) rate* of the service employees.

As was mentioned above, the contractor’s WC insurance costs generally increase according to two separate factors. It’s important to distinguish which factor has caused the increased cost in order to determine the amount of accompanying cost entitlement under the FAR 52.222-43 (e).

WC costs are calculated on total straight time wages (and/or cash fringes) paid multiplied by a specific *WC rate* charged by the insurance company. If the *pay rates* make total wage costs higher, the WC cost increases by that factor. Also, if the WC rate goes up, then the contractor’s WC insurance costs increase based on that factor. *If the contractor’s rate increases independent of and irrespective of an SCA mandated wage increase (for instance a higher accident rate during the year), the costs of such increases must be born by the contractor as simply one of the risks of a fixed-price contract.*

However, the contractor *is* entitled to an SCA price adjustment when the WC cost increases are caused by SCA mandated wage increases. The WC insurance cost increase “accompanies” the wage (and/or cash fringe) increase in those instances and the FAR clause explicitly allows this type of adjustment under FAR 52.222-43 (e).

EXAMPLE:

Using the WC example on page 13, if during the course of the year the contractor had a higher accident rate and we learn their WC rate went from 3%-5%:

WRONG:

In this scenario, the contractor might ask for the 2% difference times the \$10.50 per hour paid to the employees. (it's actual increase as a result of the rate hike)

✳ 2080 hours x \$10.50 x .02 WC increase=\$1092

However, while this increased cost actually occurred, ***it did not occur as a result of the new mandated SCA WD***, so it would simply need to be borne as a risk of the contractor within the fixed price environment. There is no entitlement on the increase on the entire wage.

RIGHT:

In this scenario, the contractor's correct entitlement would be:

✳ 2080 hours x \$.50/hour wage **increase** x .05 WC rate (***the new actual rate***)=\$52.00

c. Unemployment Insurance (or “tax”)

Unemployment insurance is paid to both the Federal and state governments. – Although FAR 52.222-43/44, 32 allows for this as an “accompanying cost” to SCA mandated wage increases, generally the contractor does *not* have an entitlement to such cost and when they do it is normally very minimal. Here's why.

i. Federal Unemployment Tax (FUTA)

FUTA is paid on *only* the first \$7,000 of earnings. Therefore, an increase to an employee's wage rate will usually *not* cause the contractor to incur any additional FUTA cost. Using the WC example, if a regular full time employee is paid \$10.50 per hour, then the annual earnings for the employee is approximately \$21,840 (\$10.50 x 2080 man-hours). If the employee's pay rate is then increased to \$11 per hour, then the annual earnings is approximately \$22,880 (\$11 x 2080 man-hours). Regardless of the increase in earnings the contractor would pay FUTA on only the first \$7,000 of these earnings in both the old performance period and the new performance period. Generally, the FUTA rate is .8 percent (.008). Therefore, the contractor's costs of FUTA for both the old period of performance and the new period of performance amount to \$56 (7,000 x .008).

ii. State Unemployment Tax (SUTA)

The situation for state unemployment tax (SUTA) is similar. However, the amount upon which SUTA is collected varies from state to state. For example, in the State of California the “taxable base” (the amount of earnings on which the SUTA tax is owed) is \$7,000, the same as the Federal unemployment tax. The taxable base for the State of Virginia is \$8,000 and the State of Washington is \$34,000. In the WC examples, there would likely be no additional SUTA costs caused by the SCA minimum rate change if the work was performed in Virginia or California. On the other hand it is possible that additional SUTA costs would

be incurred by the contractor if the work was performed in a state with a very high taxable base such as Washington. Also, if the contractor experienced a very high turnover rate, it is possible that some additional SUTA costs would be incurred and caused by the SCA minimum rate increase. In any event contractors that are asking for price adjustment money due to FUTA or SUTA costs increases need to clearly document the rationale upon which those costs are based. Due to the rarity and low dollar value of impact, this is *not* part of the PACT process. If applicable, it should be calculated outside the PACT and added to the total for the modification as a separately calculated entitlement.

III. H&W Fringe Benefits

A separate part of the SCA WDs commonly require a minimum amount of H&W fringe benefits be provided to the affected service employees. The minimum standard for such fringe benefits is based upon the monetary cost to the contractor rather than on the level of benefits provided. For example, the WD may read “\$3.50 per hour”. This establishes that the contractor must provide fringe benefits to the affected service employees that cost a minimum of that amount per hour to provide. The SCA WD does not generally require any specific type of fringe benefit, but some that are commonly provided and accepted by DOL as “bona fide fringe benefits” are health insurance/care, retirement plan contributions, life and disability insurance, and additional paid time-off such as for sick days. The contractor may also make payments directly to the employees in lieu of providing fringe benefits or they may provide any combination of bona fide fringe benefits or direct monetary payments so that the minimum contribution level is met. A detailed discussion of discharging fringe benefit obligations by equivalent means can be found in 29 CFR 4.177. If the contractor is meeting its H&W requirement by providing cash in lieu of bona fide fringe benefits for all or part of their obligation, there will be accompanying cost entitlement on top of those dollars paid as cash. PACT automatically accounts for this by requiring separation of bona fide fringe benefits and cash fringe benefits in the CSF. Refer to Step 4 of the “Analysis Wizard” for a detailed discussion of this subject. The “Accompanying Cost” sections of this guide also make reference to the application of allowable accompanying cost to cash fringe benefits.

a. The Importance of Old, New and Actual Rates

As with wages, the old SCA minimum rate and the new SCA minimum rate must be compared and they must also be measured against the amounts *actually paid and provided* by the contractor in the previous period of performance. Therefore, all three amounts must be known (and verified through payroll checks) and compared in order to calculate the correct amount of the contractor’s SCA price adjustment entitlement under FAR 52.222-43/44, 32.

b. Hours for H&W Entitlement: Odd vs. Even methods

There is also another important distinction that must be made in calculating the correct amount of a price adjustment for H&W benefits. On which hours should the calculation be based? Should the H&W differential be based upon hours actually worked (regular and OT hours; the even numbered WD model) or upon hours paid (the odd numbered WD model), including paid time-off (holidays and vacation, etc.)? The answer depends on the H&W methodology required by the WD. In this regard there are three possibilities based upon the WD requirements in the contract. The next three sections will discuss each of the scenarios. It is not uncommon to have more than one of these scenarios on the same contract. In such circumstances, each subset of records must be calculated under the proper regulations for the WD that governed those hours. Use of two PACT models may be necessary.

EXAMPLES:

- ✱ the old SCA minimum “H&W” rate was \$3.35 per hour
 - ✱ the new SCA minimum “H&W” rate was \$3.50 per hour
- AND

PAYMENT GREATER THAN THE WD

- ✱ the contractor was providing a health insurance plan to workers in the prior period of performance that costs \$4.00 per hour

NO PRICE ADJUSTMENT ENTITLEMENT

EXACT PAYMENT

- ✱ the contractor was paying for fringe benefits in the prior period of performance that cost exactly the previous minimum rate of \$3.35

THE PRICE ADJUSTMENT ENTITLEMENT WOULD BE \$0.15/HOUR (the ceiling)

PAYMENT LESS THAN THE WD

- ✱ the contractor was paying fringe benefits in the prior period of performance of \$3.25.

Despite the \$0.25 differential, THE PRICE ADJUSTMENT ENTITLEMENT WOULD BE \$0.15/HOUR (the ceiling)

c. H&W Calculations for Odd Numbered WDs

The most common is what DOL refers to as a “per employee” H&W methodology – or the odd numbered standard DOL WDs. The contractor’s H&W fringe benefits under these WDs are an hourly rate to be paid on *all hours paid* to each individual worker. However, the DOL regulations limit the required payment to a maximum of 40 hours per week (non-OT hours). *The H&W entitlement is therefore not required for OT hours worked and paid.* For example, if an individual employee is paid 2400 hours for the year and 320 OT hours, the contractor would be required to pay *only* 2080 (2400 minus 320) hours H&W rate. Likewise, any SCA price adjustment entitlement is limited to the first 40 hours paid per week (hours paid, not necessarily just hours worked i.e. vacation or holiday hours are counted into hours paid even though they are not hours

worked). Therefore, the embedded formula in PACT excludes OT hours for H&W adjustments on these odd numbered WDs, but includes vacation and holiday. See the cells highlighted in light grey on the table below.

The PACT tool has simplified the distinction of hour types for proper treatment in wage and fringe entitlements by creating a table that applies these rules to the different types of standard WD's. (See below) The information on this table is used in the background code of many of the formulas, particularly the H&W formulas, and is invisible to the user for a more seamless and less confusing experience. Nevertheless, understanding the concepts and regulatory basis that support the calculations is of great benefit to both government and contractor officials and are therefore contained in this guide as a reference.

REG: Regular Straight Time
OVT: Overtime
HOL: Holiday
VAC: Vacation
SCK: Sick Hours
BER: Bereavement or Funeral Hours
JUR: Paid Jury Duty Hours
MIL: Paid Military Leave Hours
PTO: All other Paid Time Off
 Including:
 -All hours not covered by the above categories for which company policy permits an employee to receive PAID time off.

Hour Type Code (HTC) Treatment Under ODD Numbered Standard WD-table

HTC	Hours Count for Wage Entitlement	Hours Count for Fringe Entitlement	Hours Count for Additional Bona Fide Benefits (Paid as Time-Off)	Hours Count for Regular Productive Hours
HOL	YES	YES	NO	NO
OVT	YES	NO	NO	NO
PTO	NO	NO	YES	NO
REG	YES	YES	NO	YES
SCK	NO	NO	YES	NO
VAC	YES	YES	NO	NO
BER	NO	NO	YES	NO
MIL	NO	NO	YES	NO
JUR	NO	NO	YES	NO

d. H&W Calculations for Even Numbered WDs

The second possibility is the “average cost” H&W methodology which occurs in even numbered WDs. Under the even numbered standard DOL WDs the contractor must pay at least the minimum H&W fringe benefit rate contained in the WD *on average* for each employee. The average cost calculation is based *only* on the *actual hours worked*, including any OT hours, but excluding paid time-off such as holidays and vacation. Therefore, the embedded formula in PACT *includes OT hours in the calculation, but excludes paid time-off hours* (note the cells highlighted in dark grey in the table below). Assuming that no OT is worked by employees, the H&W calculation under these WDs for a typical 40-hour a week employee would be significantly less than the 2080 hours that would be calculated under the per employee (or odd numbered) WDs. For example, if an individual employee is paid 2080 hours (40 hours X 52 weeks), but 160 hours of this is for paid time off (10 holidays and 2 weeks paid vacation), the contractor’s fringe benefit obligation under the WD is for *only* 1920 hours (2080 minus 160 holiday/vacation hours). Likewise, any price adjustment for H&W increases would be limited to 1920 hours for the year. It’s important to note that some contractors also provide employees other paid time-off (PTO). This other

PTO (which may include sick leave, bereavement, jury duty, etc...) also provides credit toward the satisfaction of the average H&W payment. There is a detailed discussion of this concept in the section V of this guide titled "Other Miscellaneous WD provisions". Suffice it to say, for even numbered WDs, the impact of paid time-off (beyond that which is required by the WD) is magnified by the average nature of the calculation. This average for the group, in essence becomes the actual against which the new requirement is measured to determine entitlement, for all applicable records. If the contractor is paying other PTO, PACT will recognize the hour type (HTC) and perform the calculation to convert those wages paid into a productive hourly rate that will then be added to the other H&W payments and consequently considered into the average. In the table below, you will see these hour types distinguished for calculation in the "Additional Bona Fide Benefits Paid" column highlighted in light grey.

Similar to the explanation above in the section for odd numbered WDs, PACT has simplified the distinction of hour types for the purpose of calculation by creating a table that applies the even numbered rules to the data entered into that version of the tool. That table runs in the background of many of the formulas, particularly the H&W formulas, and is invisible to the user for a more seamless and less confusing experience. As mentioned before though, understanding these concepts and their regulatory basis that supports the calculations is of great benefit to both government and contractor officials and are therefore contained in this guide as a reference.

REG: Regular Straight Time
OVT: Overtime
HOL: Holiday
VAC: Vacation
SCK: Sick Hours
BER: Bereavement or Funeral Hours
JUR: Paid Jury Duty Hours
MIL: Paid Military Leave Hours
PTO: All other Paid Time Off
 Including:
 -All hours not covered by the above categories for which company policy permits an employee to receive PAID time off.

Hour Type Code (HTC) Treatment Under Even Numbered standard WD-table

HTC	Hours Count for Wage Entitlement	Hours Count for Fringe Entitlement	Hours Count for Additional Bona Fide Benefits (Paid as Time-Off)	Hours Count for Regular Productive Hours
HOL	YES	NO	NO	NO
OVT	YES	YES	NO	NO
PTO	NO	NO	YES	NO
REG	YES	YES	NO	YES
SCK	NO	NO	YES	NO
VAC	YES	NO	NO	NO
BER	NO	NO	YES	NO
MIL	NO	NO	YES	NO
JUR	NO	NO	YES	NO

e. H&W Calculations for Collective Bargaining Agreement WDs

The third possibility is that the controlling SCA WD may be based upon a collective bargaining agreement (CBA) per FAR 22.1008-2. When the H&W benefits of a CBA control for WD purposes, both the SCA minimum rate and the number of hours upon which the H&W calculation is based will be determined by the explicit terms stated in the CBA. Some specify that the H&W payments/contributions must be based on all hours paid and some on all hours actually worked and in some cases a different standard is provided within the CBA. The minimum monetary contributions required by the H&W benefits in the

CBA vary substantially from one CBA to the next. Also, many CBAs do not contain the H&W contribution amount in one convenient place, but may list specific requirements separately. It is common to have such independent articles of the CBA for health insurance/care, pension contributions, life and disability insurance and additional paid time-off such as sick leave, bereavement, jury duty etc... Therefore, it is crucial to review the CBA in detail to determine the minimum H&W requirements for the prior period of performance for comparison to the minimum H&W requirements for the new period of performance. A price adjustment calculation is appropriate *only* when a differential in cost is required (“made to comply with the SCA”) between the two periods of performance.

In CBA situations, the contractor will enter specific information about the H&W structure of their CBA, as part of the CSF proposal. In essence, they are expected to read and interpret their own contract with their union and propose their entitlement accordingly. The government’s job then remains, review and validation of the proposal against the controlling WD (a CBA in this instance) and against actual payroll records. It is imperative that the contracting professional performing the price adjustment validates the contractor’s CBA against the hour type rules that they provide by customizing the CBA Tailoring Form. (Pictured below). The information that they fill out in the form translates to the HTC lookup table in the PACT and forms the basis (or sets the rules) by which all entitlement calculations are made for that CBA. Note, in situations involving multiple CBAs on one contract, each CBA may be substantively different in the way entitlement must be calculated. Each and every CBA should be validated against the HTC rules by using the “Check the Rules” button found throughout the PACT. If a CBA is silent on particular hour type, payroll records should bear out the intent of the signatory parties. It may be necessary to engage the contractor to clarify treatment of a particular set of hours. If the CBA is silent, and there are no substantiating payroll records for an hour type listed in PACT, then the hour type is assumed to have no entitlement for compensation of either wages or fringe benefits or the contracting officer may need to apply basic DOL rules & criteria, if appropriate.



CBA PACT Tailoring Questionnaire

CBA Number

Example: CBA-2003-1916

This number must be the same as the published CBA number on WDOL.gov. It also must correspond exactly with the values in column E of this CSF for records that are governed by this CBA.

H&W STRUCTURE

These structures do not co-exist within the same CBA. When you choose "Yes" to one of these questions, the other two boxes must be "No".

In the CBA, is H&W required in a specific dollar amount FOR EACH INDIVIDUAL EMPLOYEE?

In the CBA, is H&W required in a specific dollar amount ON AVERAGE for the group?

In the CBA, is H&W considered as a tool with wages? (Similar to DBA e.g. can deduct from wages if insurance premium falls short.)

HOUR TYPE FACTORS

Are wages paid for these types of hours?

Is H&W paid on these types of hours?

What is the MAXIMUM allowable # of hours for this "Hour Type"?

This must be a number

	Description	Description	Description
OVERTIME	<input type="text"/>	<input type="text"/>	<input type="text"/>
VACATION	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOLIDAY	<input type="text"/>	<input type="text"/>	<input type="text"/>
SICK	<input type="text"/>	<input type="text"/>	<input type="text"/>
BEREVEMENT	<input type="text"/>	<input type="text"/>	<input type="text"/>
JURY DUTY	<input type="text"/>	<input type="text"/>	<input type="text"/>
MILITARY	<input type="text"/>	<input type="text"/>	<input type="text"/>
OTHER TIME OFF	<input type="text"/>	<input type="text"/>	<input type="text"/>



CANCEL

ADD AND CLOSE

ADD ANOTHER WD

note the max hour cells default to 0 if the data is not filled in by the contractor or is not applicable. *There is no impact to entitlement that is automatically calculated by this value.* It is included so that a contracting officer can manually review hour types against the HTC PivotTable.

IV. Holidays & Vacation

Paid vacation and paid holidays are routinely separate and distinct parts of DOL issued WDs. Since these provisions do not change often from one period of performance to the next, the likelihood that a price adjustment for these provisions will be required as a stand alone item is rare. It is also important to note that there is no entitlement simply because an employee reaches a subsequent level of vacation entitlement prescribed by the WD. Only when the rate of pay changes, is there an entitlement to SCA price adjustment.

a. General Entitlements

Contractor proposals routinely include holiday and vacation hours as paid

PACT solution:

Vacation or Holiday Above and Beyond WD Requirement (also applies to CBAs):

If a record is found to be in excess of the allowable amount, the contracting officer can:

- Manually overwrite the record to the allowable amount on the “Raw Data Wage H&W” tab
- Note the changed record with a comment stating the amount of hours deducted (maybe even color the cell)
- Re-categorized the “unallowable” hours as PTO by creating a new line of data for the employee (insert row), filling in the appropriate rates and information and changing the HTC to PTO.
- Note the newly created record with a comment stating the amount of hours re-categorized (maybe even color the cell)
- The “Calculate Totals” button will update the calculations and the pivot tables accordingly.

* Make notes specific enough to describe why the row was changed or created for explanation to the contractor

time and as such it is appropriate to pay a *wage* adjustment of the rate of pay for these hours. If the minimum SCA *wage* rate increases by \$.50 per hour, then the contractor is entitled to this *wage* increase for wages paid on these vacation and holiday hours. The hours upon which this increase is based should be reviewed to assure that it does not exceed that provided for in the WD. See the PACT solution box below for instruction on what to do if a record is found to be in excess of the WD requirement.

The “HTC pivot table”

in PACT separates hours by hour type (grouping all vacation hours together, all holiday hours together, etc..) and then by individual employee for quick visibility on total number of hours worked or paid. A scan through the holiday section (denoted HOL) should easily reveal anyone who exceeds the standard 80 hours (or whatever is appropriate for your WD.)

You may notice that the paragraph above also is specific to *wage* increases vs. *fringe* increases. Odd and even numbered WDs handle H&W entitlement differently for vacation and holiday hours. Please refer to the “HTC” tables in the H&W section to better understand how each of the standard WDs handles payment of H&W entitlement. These tables and the resultant PACT calculations are based on 29 CFR 4.175 (a [for odd numbered WDs] & b [for even numbered WDs]). A full explanation of each consideration for H&W entitlement is found in Step 3 of the “Analysis Wizard” of PACT. An explanation of the calculations performed by PACT for vacation and holiday hours follows in the example below.

Keep in mind, that accompanying costs will also apply to the increases in the example and that this calculation will be performed for every record of data and then added to the price increase through each out-year. While \$4-\$20 may not seem like an egregious error, when multiplied by every employee, and then again multiplied over every out-year, it can amount to many thousands of dollars over the life of a contract, particularly if the mistake is repeated year-after-year.

As stated before, collective bargaining agreements have no standard treatment for these hour types. It is entirely dependent on the each agreement itself and should be carefully scrutinized against the information provided by the contractor using the “Check the Rules” buttons throughout the PACT.

EXAMPLE

Assume the following facts:

- ✱ the WD requires 10 paid holidays for a total of 80 hours,
- ✱ the contractor paid 11 holidays (88 hours) because it chose to recognize a separate holiday not covered by the WD
- ✱ the contractor employs one labor category of employees, all are paid \$10 per hour in wages and all worked 1920 hours in the previous year.
- ✱ The contractor paid the exact H&W requirement into a non taxable plan for all employees
- ✱ the old SCA minimum wage is \$10 per hour
- ✱ the new SCA minimum wage is \$11 per hour
(a difference of \$1 per man-hour)
- ✱ the contractor was paying employees, \$10.50 per hour
- ✱ the old SCA minimum "H&W" rate was \$3.35 per hour
- ✱ the new SCA minimum "H&W" rate was \$3.50 per hour

RIGHT:

Assuming the pay rates from the previous examples,

- ✱ **the WAGE adjustment calculation should be:**

\$0.50/hour wage increase x 80 holiday hours=\$40.00

No wage increase entitlement on the "extra" 8 hours of holiday

- ✱ **the FRINGE adjustment calculation should be**

- ***Under an odd numbered WD:***

-The "extra" 8 hours of holiday first must be calculated and spread across all productive hours into a productive hourly additional bona fide benefit rate. *(Because all employees are paid the same, this illustration shows these calculations performed as if on one employee)*

- 8 hours x 10.00 per hour=\$80/1920 productive hours= \$0.04/hour

-Second, the additional bona fide benefit paid as time-off must be added to the monetary benefit paid to arrive at the actual H&W paid.

- \$3.35+.04=\$3.39

-Third, the new H&W requirement is compared to the actual (we use actual because it is higher than the old required rate) to determine the hourly entitlement.

- \$3.50-\$3.39=\$0.11 per hour

-Fourth, H&W entitlement on vacation hours is calculated using the actual H&W rate x the allowable number of hours paid. The correct H&W entitlement on the allowable vacation hours would then be

- \$0.11 per hour x 80 hours= \$8.80

- ***Under an even numbered WD:***

NO FRINGE ADJUSTMENT FOR THESE HOURS UNDER AN EVEN NUMBERED WD.

Vacation and Holiday have no H&W entitlement under even numbered WDs based on the 29 CFR 4.175(b) reference to all hours *worked*.

WRONG:

- ✱ Wage Component

\$0.50 per hour wage increase x 88 holiday hours=\$44.00

- ✱ Fringe Component

\$0.15 per hour fringe increase x 88 holiday hours=\$13.20

b. Part Time or Temporary Employees

It is also important to note that a proration of this principle applies when the contractor utilizes part time or temporary employees in the performance of

PACT solution:

Caution should be exercised and expertise in Excel should be utilized when making any changes to the PACT spreadsheet itself. That said, a relatively skilled MS Excel user should be able to perform changes to the pivot tables, change cell values (columns A-S only, not calculated cells) or add notes and formatting as needed to configure the data in a way that draws out the salient factors for evaluation.

Part time or temporary employees

Entering “PT-” or “TMP-“ before the employee name or adding a number like “9” to the beginning of each employee name, so that those records can be evaluated using a separate, pro-rated standard will help you streamline your evaluation of this group of employee records.

To look at only part time employees in the “HTC Pivot Summary”, using the scenario above, you would click the down arrow in the “Employee” column heading, and only leave checked those names that have PT at the beginning. This way, you can see just the part time people, separated by the types of hour that they were paid for.

Using Excel features in PACT

Using or creating Pivot Tables in PACT

Because PACT was specifically built in MS Excel, it allows you to re-arrange or “show” only specific subsets of data the existing pivot tables. You may also write new pivot tables to sort or total on any of the columns in the “Raw Data Wage H&W sheet. *Be advised however, new pivot tables will not automatically update when the Raw Data is recalculated. You will have to perform a simple “refresh data” using the red exclamation point button if you recalculate your spreadsheet.*

Adding Columns

Adding columns may not be advantageous however, because the coded calculations that occur when the “Calculate Total” button is pushed may adversely affect the formulas in the cells of the added columns.

the contract. For instance, a half time employee would only have entitlement for 40 hours of holiday in one year, not 80 hours. PACT does not take this into consideration in its calculations. If the contractor you are working with utilizes this type of labor in it’s SCA workforce, you may need to ask them to designate the full/part time or temporary status in some way within the CSF. See the PACT solution below for ideas on how to use PACT to evaluate this type of record.

c. Increased Number of Holiday or Vacation Hours Required by the WD

There are occasions, when the WD will actually increase the number holiday or vacation hours required by the WD (as opposed to the increase in wage rate on those hours). In those rare instances, the contractor is entitled to a price adjustment under FAR 52.222-43/44, 32 for those additional days.

As with other fringe benefit provisions, paid time-off provisions, including Holiday and Vacation with CBA-based WDs must be carefully reviewed since they often are unique to each specific CBA and can vary significantly from the DOL standard WD requirements. Also, pay particular attention to this number of paid days off when a new CBA is incorporated into the contract. While the standard WDs don’t typically vary in the number of paid vacation and holidays, even within the same contract a new CBA may have very different provisions

than the old, and entitlement will have to be carefully evaluated. If additional days are added in either the area WD or in a new CBA, the calculation you should perform is different than those contained in the examples above. Using the information provided in previous examples refer to the box below for an example of what these calculations will look like. Bear in mind that this calculation would be for one employee. Every employee covered by the applicable WD (which may be a CBA) would require this calculation.

EXAMPLE:

The increased holiday and vacation calculation have to be performed manually. PACT does not calculate this for you.

- ✳ the old WD required 10 paid holidays for a total of 80 hours
- ✳ the new WD now requires 12 paid holidays for a total of 96 hours
- ✳ the required wage rate in the new contracting period is \$10.50/hour
- ✳ the required fringe rate in the new contracting period is \$3.50
- ✳ assume that all of the \$3.50 fringe is paid as a bona fide benefit

The amount to be added to the price adjustment entitlement would be:

WAGE Component:

$$\$10.50 \times 16 \text{ new hours} = \$168.00$$

FRINGE Component

(Only if fringe is required to be paid on vacation hours under the WD. Either an odd numbered WD or potentially in a CBA)

$$\$3.50 \text{ bona fide fringe/ hour} \times 16 \text{ new hours} = \$56.00$$

ACCOMPANYING COST Component

$$7.65\% \text{ (FICA)} + 3\% \text{ (WC)} = 10.65\%$$

$$\$168.00 \text{ additional wages} + 0 \text{ cash fringes being paid}) \times .1065 = \$17.89$$

**TOTAL INCREASE TO PRICE ADJUSTMENT CALCULATION AS A RESULT OF
ADDITIONAL HOLIDAY OR VACATION DAYS**

$$\mathbf{\$168.00 + \$56.00 + \$17.89 = \$241.89}$$

Don't forget that there still would be the \$0.50/hour wage increase on the previously existing allowable vacation hours (80 hours). ***PACT will calculate this part of the vacation entitlement for you.***

GRAND TOTAL FOR ALL VACATION would be $\$0.50 \times 80 = \$40.00 + \$241.89 = \underline{\underline{\$281.89}}$

V. Other Miscellaneous WD Provisions

The vast majority of the issues needing review under SCA price adjustments are discussed in the five items detailed above. However, there are other miscellaneous WD provisions that will require analysis and decisions on whether a contractor is entitled to price adjustment as follows:

a. Shift Premium

Shift (or other similar premiums) are sometimes required by WDs. These shift differentials occasionally required in DOL issued WDs and more commonly included in CBA-based WDs and are allowable under FAR 52.222-43/44, 32 if paid to satisfy SCA mandates that exist (or increase) in the new period of performance when compared to the mandates of the SCA requirements in the old WD/CBA. ***This means, shift differentials need not be included in the PACT submission if the shift premiums themselves are not changing.*** If the premiums *are* changing, PACT can handle their inclusion in a couple of ways depending on how the contractors accounting system records these hours for compensation. Refer to the PACT solution box below for specific examples.

PACT Solution:

EXAMPLE:

- ✦ We assume an odd numbered WD
- ✦ The old wage requirement was \$10.00
- ✦ The new wage requirement is \$10.50
- ✦ The old shift premium was \$0.20
- ✦ The new shift premium is \$0.25
- ✦ The employee worked 1920 regular hours
- ✦ 40 of those regular hours were at shift premium
- ✦ The employee also worked 10 OT hours at shift premium

For the sake of simplicity, the table below excludes the distinction between bona fide and cash fringes and only shows columns that would be impacted by this scenario. With the facts above, the submission would produce an accurate calculation if the hours are recorded using either of the methods shown below.

Alternative 1: Separate Rows The submission may contain additional *rows* of data for each affected employee with only the amount of the shift premium contained in that row. The regular or OT hourly pay associated with those hours will be captured with the other hours paid at the regular or OT rate, as will the associated fringe entitlement.

Old Required Wage	Actual Wage Paid	New Required Wage	Old Required Fringe	Actual Fringe Paid	New Required Fringe	# of Hours	HTC
.20	.20	.25	0	0	0	40	REG
.20	.20	.25	0	0	0	10	OVT
10.00	10.00	10.50	3.35	3.35	3.50	1920	REG
10.00	10.00	10.50	0	0	0	10	OVT

Alternative 2: Combined Rate Perhaps a simpler approach to understand, the submission may also contain rows of data for which the *rate* of pay was increased by the shift differential.

Old Required Wage	Actual Wage Paid	New Required Wage	Old Required Fringe	Actual Fringe Paid	New Required Fringe	# of Hours	HTC
10.20	10.20	10.75	3.35	3.35	3.50	40	REG
10.00	10.00	10.50	3.35	3.35	3.50	1880	REG
10.20	10.20	10.75	0	0	0	10	OVT

b. Paid Time-off (PTO)

Paid holidays and vacation were discussed above in detail. However, some WDs and particularly those based on CBA provisions, often require additional paid time-off such as jury duty, bereavement days, sick days, military leave, etc. Some companies under standard WDs also pay these benefits of their own volition, even when the standard WD does not require it. In those situations, PACT calculates these payments as *additional bona fide benefits* (column AD in the “Raw Data Wage H&W”) which are then added to the benefits reported in columns L&M as credit toward satisfaction of the H&W requirement. This calculation is required in 29 CFR 4.177 and an example scenario is provided. Discussion of some common forms of PTO follow in the sections below.

c. Bereavement Pay

This paid time-off provision is recognized by DOL as a “health and welfare” benefit under standard and non-standard WDs (29 CFR 4.171 and 4.177). Therefore, a provision by a contractor to pay this must be evaluated as a credit toward satisfaction of the H&W portion of the WD. (The calculation for this requirement is found in the above CFR reference, and PACT has incorporated these calculations under both the odd and even standard WD scenarios.) ***The PACT Contractor Submission Format codes this as BER. Notice it’s inclusion in the HTC tables in the H&W section.*** Generally, no allowance for a separate price adjustment should be made for this additional paid time-off provision. If, on the other hand, it is a distinct part of a CBA, then a separate price adjustment may be allowable. Caution must be used when making such an adjustment that a realistic number of man-hours is used to estimate any such adjustment. For example, let’s assume that the CBA article allows for a maximum of three (3) days pay per occurrence. It is not plausible that each and every employee will experience an event that requires this time-off. Therefore, if the contractor asks for an adjustment based upon 24 hours additional paid time-off for this provision for each and every employee, it should *not* be allowed. A more reasonable approach to this is to base an adjustment on the number of hours of pay actually experienced by the contractor. If there is historical data, it should be used to determine a reasonable number of hours. If there is no historical data, then a reasonable waiting period should be agreed to so that such data can be collected. Then an appropriate number of hours could be based upon that data.

d. Jury Duty

Same as bereavement pay, except that some company policies or CBAs require that any payment by the court for jury duty services be off-set against the amount of wages required. If so, this should be factored into the calculation. There is a specific Hour Type Code in PACT for this type of hours: JUR.

e. Sick Leave

Same as bereavement pay, except that some sick leave provisions provide for a “cash out” payment if and when such hours are not used by employees. In other words, if the employee does not use all of his/her sick leave

entitlement for the period, the company will pay unused hours directly to the worker at the end of specific time period. Sick hours paid are recorded as SCK in the "HTC" column: S.

f. Overtime (OT)

OT *premium* is *not* allowable within the price adjustment calculation. OT premium is *not* required by the SCA, but instead is a requirement of the Contract Work Hours and Safety Standards Act or the Fair Labor Standards Act and is therefore not permitted under FAR 52.222-43/44, 32. Furthermore, whether employees are required or allowed to work OT hours is deemed within the contractors control and the contractor should be able to avoid such premium payments entirely with good management practices and flexible scheduling of employees. Also, the policy of not allowing for such premiums within SCA price adjustment proposals is supported by FAR OT policies found at FAR 22.103.

This statement should not be confused to mean that a contractor is not entitled to price adjustment on OT hours. OT hours *are* entitled to *wage* adjustment *at the straight time rate; not at the OT rate. H&W adjustment entitlement on OT hours may be appropriate in the even numbered WD model. If you are in an even numbered scenario, refer to step 3 of the "Analysis Wizard" for a detailed discussion of H&W adjustment entitlement. You may also note the treatment of OT hours in the HTC tables in the H&W section of this guide.*

g. Uniforms or other reimbursements for company expenses

Uniforms provided by the contractor and amounts paid to maintain these uniforms are explicitly considered company business expenses and *not* wages or fringe benefits under the SCA. This is likewise so for other company related business expenses that are sometimes borne by employees and then reimbursed by the contractor. Some of the common items that fall into this area are – mileage reimbursement for use of the employee cars/trucks, tools or supplies, and per diem expenses when travel is required. DOL regulations explicitly consider such items to be "...a business expense of the employer and such cost may not be borne by the employees..." Therefore, any such request for an adjustment to contract price under FAR 52.222-43/44, 32 for these expenses is not allowed.

Understanding the Hour Type Code (HTC) Table

PACT relies heavily on the data entered in the HTC "look-up" table. The term "look-up" refers to the nature of certain formulas looks up the yes or no value found in a certain corresponding cell of the HTC Lookup table in order to determine how or if to consider the variable in the calculations. These tables are hidden from the user and can be displayed in "bite-size" pieces, as needed, so as not to burden the user with the complexity of the formulations. However, understanding of the columns, the information contained in the columns, and how the information is used in the calculations, may be a helpful background for experienced contracting professionals or if the entitlement calculations require justification. Using the "Check the Rules" button, users can display an HTC data-

set for any of the WDs entered into the PACT by the contractor. Odd and even numbered standard WDs have pre-defined hour type data sets. These can be viewed in sections III (c) and (d). CBAs vary widely in the way that each hour type is handled and as such, PACT requires the contractor to enter the specific hour type data from each CBA into the PACT tool in the CSF process using the form pictured in section III (e) on page 19. As you may notice, there are more columns on the HTC Look-up Table than there are on the CBA Tailoring Form on the CSF. That can be two reasons for this: Certain answers satisfy multiple questions, and certain variables are set by regulation. Below, please find a guide to the HTC columns. *Note* This example is purely fictional to illustrate the logic behind the table.

Figure: HTC Lookup Table Explanation

HTC	Hours count for Wage Entitlement	Hours Count for Fringe Entitlement	Hours count for Additional Bona Fide Benefits (Paid as time Off)	Hours Count for Regular Productive Hours	Method	WD Name
HOL	NO	NO	YES	NO	individual	CBA-7890
OVT	YES	NO	NO	NO	individual	CBA-7890
PTO	NO	NO	YES	NO	individual	CBA-7890
REG	YES	YES	NO	YES	individual	CBA-7890
SCK	YES	YES	NO	NO	individual	CBA-7890
BER	YES	YES	NO	NO	individual	CBA-7890
JUR	NO	NO	YES	NO	individual	CBA-7890
MIL	NO	NO	YES	NO	individual	CBA-7890
VAC	NO	NO	YES	NO	individual	CBA-7890

This column is entered by the contractor and should directly match the WD or the CBAs included in the proposal.

This column refers to the H&W structure of the WD and is entered by the contractor for CBAs or is automatically determined by the last digit of the WD number for standard WDs. Odd numbered WDs are individual method, Even numbered WDs are average method. For collective bargaining agreements, the H&W article should be closely reviewed for terms like "each employee" (which would indicate individual methodology) or "on average" (which would indicate average methodology) The CBA should be compared to this table by using the "Check the Rules" button and choosing the proper CBA.

These columns directly correspond to the columns on the CBA Tailoring Form. Regular hours are not included on the CBA Tailoring Form because they are automatically entitled to both wages and H&W.

If an hour is not entitled to wages, it is inherently considered an additional bona fide benefit. You will notice that "Yes" appears when "No" is entered in the first column. These two columns should always be opposite one another.

This column is explicitly dictated by Federal Policy in 29 CFR 4.177(c)(4). It is used in the calculation of the denominator of the Average H&W paid for "average" method WDs.

Summation

These are the primary elements of SCA price adjustment proposals and the policy of making adjustments to fixed price contracts. As mentioned in various sections above, the formulas embedded in the spreadsheets of PACT follow these principles and make it more efficient for both contractors and government contract specialists to determine the correct amount of entitlement under the SCA price adjustment clause.

CONTRACTORS

PACT Contractor Submission Format (CSF)

The SCA Price Adjustment Calculation Tool (PACT) Contractor Submission Format (CSF) that you have received is a new format the Navy is using to collect SCA price adjustment proposal information from its service contractors.

This data will support your written request for price adjustment under FAR 52.222-43/44, 32 (heretofore referred to as “the clause”). You will still submit your proposal cover letter (with your own calculations if you prefer) with an amount requested for the current option year and all remaining out-years on your contract. This CSF will be used for the Government’s evaluation and validation of your proposed amount of entitlement.

I. Key Features:

There are several key features built into the CSF to aid in your understanding of the requirements of the format.

a. Standardized:

This format can be utilized year after year. The PACT CSF will eliminate the issues of multiple resubmissions for variables that may have been overlooked, not requested, under represented or misinterpreted on either side of the table. *Resubmission may still be required if deficiencies are identified in the integrity or allowability of the data*, however all the factors required for the determination of entitlements under the clause are captured and explained in detail within this format for validation, evaluation and calculation by the government contracting officer. The intent is that a company will be able to query their accounting or payroll system to generate the required data with minimal need to re-format or summarize the data.

b. Comment Flags:

There are red flags at the upper right hand corner of many of the column headings or key areas that require description. Scrolling over these flags will pop-up a detailed explanation of the data requirements of that cell or column. They are specifically designed to eliminate ambiguity in the data requirement and expedite your ability to prepare the proposal required by the clause. If you do not know how to use or identify comment flags in Excel, the interface on the CSF itself will provide screenshots and explanations at the push of a button to orient you to the features of the new format.

c. Color coding:

Specific cost elements of the price adjustment entitlement (wage, fringe and accompanying costs) are headed in specific colors to visually separate the

data. Only wage, fringe benefit information and WC rates are required by the CSF.

The government PACT automatically calculates the allowable accompanying costs (social security and medicare otherwise known as FICA) according to the other required information you provide. Your price adjustment proposal (cover letter or accompanying calculations) should include accompanying costs; however the CSF does not require entry of any accompanying cost factors except the WC rate. This is because FICA is universally 7.65% and FUTA and SUTA are very rarely impacted by an SCA price adjustment due to the low threshold requirements.

d. No Employee Payrolls Required at Time of Submission:

The PACT method enables selective payroll sampling instead of the more common random or all employee payroll gathering methods of the past. The contracting officer will request specific payroll records after analysis of the CSF data. The contracting officer may choose to require additional data if scrutiny of selected data appears to have trends worth analyzing across a wider sampling. However, more commonly, the contractor will have to submit less payroll data under this methodology because the CSF already highlights the salient factors for analysis of entitlement.

e. Validation, Formatting and Locking buttons:

The PACT CSF contains a “**Validate**” button which runs code that will check your data against specific data rules. For instance: If you have entered data into the Contractor Wages, H&W sheet for employees under WD number 2005-2103, but you have not used the interface to add that standard WD to your submission, PACT will tell you your governing WD for those employees is “invalid”, color the cells red, and ask you to correct before submitting. This is because PACT will not have the information it needs from you to perform the necessary calculations for those records if you fail to enter the WD. Another issue that the “Validate” button will catch is rows of data with 0 hours. These rows of information are unnecessary and can lead to problems when 0 is used as a multiplier in certain calculations, and therefore the code will flag these records for deletion. The purpose of the validation button is to eliminate simple data entry issues that can slow down the processing of your proposal. The “**Format**” button is more superficial, though aids in the presentation of the data to the government. An example might be a column that contains dollars. It may accurately state 3.50. However, when a contract specialist is looking at 20 columns of information, it could easily be mistaken for 3.5 hours. Pressing the formatting button ensures that columns containing dollar information are formatted with a dollar sign and two decimal places. The “**Lock**” button does exactly that. It locks the contractor data to preserve the integrity of the submission. When the government imports your data into PACT for analysis, they will be able to make changes if necessary. However, if the contractor locks their CSF, the original submission will remain preserved in case comparison needs to be made.

f. Acronym Guide:

Each screen in the CSF has a picture of an alphabet block somewhere in the form. By pressing the alphabet button, a printable guide will pop up that defines many of the most common Acronyms that you may see within the PACT CSF. Realizing that this is a new process, the intent is to make the experience as easy to understand as possible.

II. Basic Tab Descriptions:

a. Instructions Rates and Factors Tab (worksheet):

1. H&W Components:

This sheet contains basic information about the components within the H&W rate. Often, a contractor may pay that H&W rate by combining multiple contributions to various benefit elements that add up to the total requirement.

Example:

Assume these facts:

- A company has an H&W requirement of \$5 per hour
- The company is part of a group insurance plan that provides insurance to each employee at a cost of \$3 per hour.
- The company puts the remaining \$2 per hour for each employee into a 401K plan.

In this example, the table on the “Instructions Rates and Factors” tab would show the following in the non taxable benefits column:

- Group Insurance-\$3.00
- 401K-\$2.00

If in the above example the employer didn't contribute the \$2.00 per hour to the 401K and instead paid the remaining required amount (\$2.00) in “cash” in the employees' paychecks. The factors would show the \$3.00 Group Insurance as a non taxable benefit and \$2.00 in cash as a taxable benefit.

2. Hour Type Codes (HTC):

Descriptions of Hour Types are also found on the second tab of the CSF. These same descriptions are available in the column heading flags on both the Contractor Example p1 and Contractor Wages, H&W (p1) tabs for your quick reference. If your company should encounter an hour type that the CSF has not identified or categorized, please contact your government contracting officer for clarification. Your feedback will help us capture your actual data.

***These codes may be different in your company's accounting system and require a simple “find, replace” operation to convert them to the PACT-CSF required codes.*

b. Contractor Wages, H&W:

This is the repository for your company's data. Use the example data and comment flags to understand what data is required

*****BEST PRACTICE*****

One of the best practices identified through field testing of this tool is to involve an accounting system and/or IT professional from your company early in the report preparation stages. The CSF is intended to simplify the reporting process by enabling a company to write a query to import data from your payroll program into these columns. Ordinarily only data already contained in your recordkeeping systems is all that is necessary to create your proposal in this format.

1. Raw, Aggregate Data:

If you look at the "Contractor Example (p1)" tab, you'll see the nature of the data collection required. The hour totals are for the entire previous year of performance. (They do not have to be broken down by pay period.) However, the lines are broken out specifically each time an employee works in a different contract line item, each time they work a different labor category, each time they work a different "Hour Type", each time their work is governed by a different WD (most common when an employee travels across counties on a regional contract). The data is "raw" in the sense that it should be coming directly out of a payroll system, without significant changes, tabulation or summary for reporting purposes.

2. Why Break It All Out?

i. Contract Line Item

This is *very* important because of the complexity of contract funding. When the contractor data is broken to this level, the government can accurately reconcile costs to customers, account for their specific increases according to their usage, and acquire funding more expediently for your price adjustment modification. Bottom Line: You get paid *faster*.

ii. Labor Category:

Each labor category usually requires a separate rate of pay and could potentially be paid a different rate of WC insurance. In order to perform an accurate calculation of entitlement, these factors must be gathered and separately calculated.

iii. Hour Type

Different *types* of hours carry different entitlement for price adjustment under the clause (FAR 52.222-43/44). For instance: OT is compensable at the straight time rate for wage adjustment entitlement, and is entitled to H&W adjustment under an even numbered WD. Under an odd numbered WD, it is not entitled to any H&W adjustment. In order for the government to accurately calculate entitlement under the clause, these hours must be categorized and distinguishable from regular hours vs. vacation vs. holiday, or PTO, etc. *If you are requesting adjustment under a collective bargaining agreement, you will be asked to read the CBA and enter the required data about each hour type. The information you enter will form the basis of your price adjustment entitlement. Careful attention should be paid at this step as it will have a dramatic impact on the amount of entitlement.* The government will carefully scrutinize the data entered against the corresponding CBA in order to validate the proposal. If you are unsure about the treatment of a particular hour type, clarify the intent with management and union. The intent should be clear and borne out by the payroll practices.

iv. Governing WD

Sometimes an employee may perform work under multiple WD's due to the regional nature of the work in the contract. If such is the case, different rates may apply to their labor category (or categories) when performing in different locations, therefore changing the hourly entitlement due under the clause.

Helpful Data Format Tips: If a column is not listed here, the column headings or flags are self-explanatory.

D - Employee ID (unique identifier-**May not contain letters, must be formatted as a numbers *only* column**)

E- Governing WD- this number must match the number on the WD (or CBA). It should not contain the "rev". There is an example on the "Add" form to help guide your submission. If a WD appears in your data, but it has not been entered into the "add" form, your submission will not pass validation check. All governing WDs must be entered via the "add" process to be considered for price adjustment entitlement.

G - Workers' Compensation rate *expressed in decimals* – for example .031 instead of 3.1% **Note: each job class may have a different associated rate.**

Q - # of hours- may contain decimal places if necessary

R - OT Scale - this is a multiplier for the regular wage rate "1" for regular time, "1.5" for time & a half, etc. No calculations are performed using this number, it aids in the contracting officer's interpretation of numbers of hours an employee might have in his/her raw data.

If a factor is not listed in this user guide or if you encounter any ambiguity, contact your contracting officer.

III. COMMON TERMS FOR CLARIFICATION:

a. Taxable

This term refers to amounts paid to employees on which the application of payroll tax is mandatory. Refer to flags in the table for H&W Benefit factors on the “Instructions Rates and Factors” tab for examples of typical taxable benefit factors.

b. Non taxable

This term refers to amounts paid to employees on which the application of payroll tax is not mandatory (FICA and WC). Refer to flags in the table for H&W benefit factors on the “Instructions Rates and Factors” tab for examples of typical non taxable benefit factors.

Tax Rules on Specific Types of Fringe Benefit Payments:

Refer to the table on page 35 of the following hyperlinked form for details on applicable payroll taxes on specific types of investment plan contributions:

<http://www.irs.gov/pub/irs-pdf/p15.pdf>

c. H&W vs. Fringe

These terms are often used interchangeably within the PACT CSF and within the underlying regulations themselves. They refer to the benefit requirements of the WDs and can fall into many sub-categories and treatments under the clause.

IV. Using the CSF in a CBA WD

The primary difference between CBAs and standard WDs is usually how each H&W factor is handled. Sometimes, the hour types included in the CBA vary slightly from those defined in the “Hour Type Codes” (HTC). Usually, anything contained in the CBA can be captured under PTO, if it isn’t one of the specified categories. In those rare situations where something lies outside of the CSF, the CSF usually can be modified slightly to encompass the requirement. If such is the case, the government may have to manually calculate the price adjustment entitlement because the automated PACT will not capture the new HTC.

The key to utilizing the CSF on a CBA governed contract is categorization of specific H&W components. While there may be many different H&W components defined in the terms of the CBA, they generally will fall into two categories: taxable or non taxable. The CSF asks the contractor to break out the hourly taxable and non taxable H&W components on the first sheet entitled “Instructions, Rates & Factors”. The hourly TOTALS for each of those taxable and non taxable categories should then be represented on the “Contractor Wages, H&W” tab in H&W columns L&M and O&P.

An example might best illustrate this point. Beware, this gets a little tedious, but it’s realistic, so stick with it. This is an incredibly complex and detailed process. Also bear in mind, many employees work multiple labor

categories, and against multiple contract line items. For the sake of simplicity the sample tables assume these employees worked one line item. If an employee does work multiple line items, or multiple labor categories, the hours will need to be appropriately distributed accordingly. It is the contractor's responsibility to provide this information in his request, and should be accomplished somewhat automatically using an automated accounting or payroll system in most cases.

Example Scenario:

Previous Year Requirements:

- CBA specifically calls out an H&W requirement of \$3.24/hour.
 - \$0.02/hour contribution to the apprenticeship fund,
 - \$0.03/hour into a training fund,
 - \$0.25/hour into a pension fund,
 - Either \$2.94 or \$1.94 into a medical insurance plan depending on single versus family coverage,
 - Any remainder can be taken in the form of cash by the employee in their paycheck,
 - H&W is paid on all hours worked.

Current Year Requirements

- The new rates in the CBA increase the H&W requirement to \$3.35
 - \$0.03/per hour going toward the training fund,
 - \$0.05 going to the apprenticeship fund,
 - \$0.25/ hour into a pension fund,
 - Either \$3.27 or \$2.27 going into a medical insurance plan depending on single versus family coverage,
 - Any remainder can still be taken in the form of cash by the employee in their paycheck,
 - H&W is still paid on all hours worked.

Let's look at how the CSF would categorize these factors for two employees, Jack and Jill. Their specific situations are detailed in the boxes below.

Jack: Family to Single Coverage

In the previous year, Jack had family coverage for his medical plan. His H&W benefits would all fall under non taxable H&W for a total of \$3.24/hour. Therefore each record of his data on the CSF would reflect \$3.24/hour in column L for all hours worked. Column M would show \$0.00.

- If Jack got divorced, and dropped his coverage for coming year to single only, his new H&W in columns O & P would be:

Column O (new non taxable H&W): \$2.60 (\$0.03+\$0.05+\$0.25+\$2.27)

Column P (new taxable H&W): \$0.75 (\$3.35-\$2.60)

If he worked one line item (CLIN, ELIN, etc..) of the contract, his data on the CSF look something like this:

K	L	M	N	O	P			
<u>Previous Year Required H&W</u>	<u>Bona Fide H&W/ Paid to plan (non taxable)</u>	<u>Fringe Paid as Cash (taxable)</u>	<u>New Required Min Fringe</u>	<u>New Bona Fide H&W Paid to plan</u>	<u>New Fringe Paid as Cash</u>	<u># of hours</u>	<u>OT SCALE</u>	<u>Hour Type Code (HTC)</u>
3.24	3.24	0.00	3.35	2.60	0.75	1920	1.0	REG
3.24	3.24	0.00	3.35	2.60	0.75	40	1.0	VAC
3.24	3.24	0.00	3.35	2.60	0.75	40	1.0	HOL

Jill: No changes in coverage

Jill has single person coverage for her medical plan in the previous year. Her H&W benefits would break down as follows:

Column L (non taxable H&W): \$2.24 (\$0.02+\$0.03+\$0.25+\$1.94)

Column M (taxable H&W): \$1.00 post tax H&W (\$3.24-\$2.24)

- In the coming year, Jill makes no changes to her medical plan. Her new H&W in columns O&P would be the same as Jack's:

Column O (new non taxable H&W): \$2.60 (\$0.03+\$0.05+\$0.25+\$2.27)

Column P (new taxable H&W): \$0.75 (\$3.35-\$2.60)

If she worked one line item (CLIN, ELIN, etc..) of the contract, her data on the CSF would look something like this.

K	L	M	N	O	P			
<u>Previous Year Required H&W</u>	<u>Bona Fide H&W/ Paid to plan (non taxable)</u>	<u>Fringe Paid as Cash (taxable)</u>	<u>New Required Min Fringe</u>	<u>New Bona Fide H&W Paid to plan</u>	<u>New Fringe Paid as Cash</u>	<u># of hours</u>	<u>OT SCALE</u>	<u>Hour Type Code (HTC)</u>
3.24	2.24	1.00	3.35	2.60	0.75	1920	1.0	REG
3.24	2.24	1.00	3.35	2.60	0.75	40	1.0	VAC
3.24	2.24	1.00	3.35	2.60	0.75	40	1.0	HOL

The bottom line is: as long as these pre and post tax category totals are accurately represented for each employee, it does not matter how many different components fall under each pre or post tax H&W total for any given employee. It does not matter that those totals are different from one employee to the next, as with Jack and Jill. It does not matter that the employee might switch coverage levels from year to year and take portions in cash to their paycheck. *PACT will accurately calculate the H&W entitlement and appropriate accompanying costs (if any) in either the average cost or individual cost models as long as both the previous (L&M) and new (O&P) totals are accurately captured.*

V. Specific Regulatory Guidance:

a. FAR 52.222-43/44

FAR 52.222-43/44 is the clause that describes the requirements to adjust price under the Fair Labor Standards Act and Service Contract Act- Price Adjustment (Multiple Year and Option Contracts):

https://www.acquisition.gov/far/html/52_222.html#wp1148260

b. The Navy Desk Guide for Service Contract Price Adjustments

The Desk Guide gives Navy policy, interpretation, guidance and examples of how to properly calculate price adjustments under the clause.

<https://acc.dau.mil/CommunityBrowser.aspx?id=21986&lang=en-US>

c. 29 CFR Part 4 Subpart D:

Establishes the minimum DOL requirements for compliance with WDs and leads to a detailed conclusion of what “made to comply” means within the context of the SCA price adjustment clause. FAR 52.222-43/44.

http://www.dol.gov/dol/allcfr/esa/Title_29/Part_4/Subpart_D.htm