OCAM

OFICINA DEL COMISIONADO DE ASUNTOS MUNICIPALES

1 de mayo de 1997

MEMORANDO CIRCULAR 97- 20

A TODOS LOS MUNICIPIOS
"NON-ENTITLEMENT"

José A. Otero García
Comisionado

REVISION 106 EN EL PROCESO DE PLANIFICACION

La Oficina del Comisionado de Asuntos Municipales, (OCAM) es la entidad administradora de los fondos provenientes del "Community Development Block Grant" para los municipios Non-Entitlement. Entre sus responsabilidades se encuentra velar por el cumplimiento del proceso de revisión de la Sección 106 de la Ley de Preservación Histórica Nacional del 1966.

Dicho estatuto requiere que el proceso de revisión de la Sección 106 sea iniciado por el municipio en etapas tempranas de planificación, cuando se pueden considerar ampliamente las alternativas viables. Es de esta forma que los asuntos de preservación pueden recibir consideración completa mientras se planifica el proyecto.

A tales efectos el municipio deberá establecer un itinerario para completar el proceso de la Sección 106 que sea consistente con el itinerario de planificación y aprobación del proyecto.

Deseamos recalcarle la importancia que tiene el cumplimiento con la Sección 106, ya que la OCAM está impedida de autorizar la liberación de fondos federales bajo CDBG, para cualquier proyecto hasta tanto el municipio haya cumplido con dicho proceso.

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Para asegurar el desarrollo adecuado de los proyectos, es imperativo que realicen esfuerzos necesarios para viabilizar lo antes expuesto.

Le reiteramos nuestra disposición para asistirlos en este asunto. De necesitar información adicional al respecto, puede comunicarse con la Sra. María R. Ortiz Hill, Comisionda Auxiliar del Area de Programas Federales, al 754-1600.

cf: Aqt. Lilliam D. López
Preservación Histórica (SHPO)

MROH/jrs/5-001/wp6.1/

OFICINA CENTRAL DE ADMINISTRACION DE PERSONAL
OFICINA DEL COMISIONADO DE ASUNTOS MUNICIPALES

12 de noviembre de 1996

MEMORANDO CIRCULAR # 96-27 **MEMORANDO ESPECIAL NUM.** 55-96

ALCALDES Y PRESIDENTES DE ASAMBLEAS MUNICIPALES

José A. Otero García
Comisionado
Oficina del Comisionado
de Asuntos Municipales

Aura L. González Ríos
Directora
Oficina Central de
Administración de Personal

ASUNTO: NUEVO SALARIO MINIMO FEDERAL

El 20 de agosto de 1996, el Presidente de los Estados Unidos, William Clinton, firmó la Ley H.R. 3448, aumentando el salario mínimo federal de $4.25 a $4.75 por hora, comenzando el 1 de octubre de 1996 y a $5.15 por hora efectivo el 1 de septiembre de 1997. Este nuevo Salario Mínimo Federal es obligatorio para los municipios y deben implantarlo inmediatamente. De no hacerlo, se incurriría en violación de la ley federal conocida como Ley de Normas Razonables de Trabajo "Fair Labor Standards Act (FLSA)" 29 USC 201 et seq., según enmendada.

Algunos municipios han mostrado preocupación respecto al efecto que la implantación del nuevo salario mínimo federal podría tener sobre la prohibición del Artículo 8.009 de la Ley Núm. 81 del 30 de agosto de 1991, 21 LPRA, Sec. 4359 que limita a un 50% los gastos en que puede incurrir un municipio entre el 1 de julio del año de unas elecciones generales y la fecha de toma de posesión de los nuevos funcionarios electos.

Es la opinión de la Oficina del Comisionado de Asuntos Municipales que la aplicación de la Ley de Salario Mínimo Federal no violenta el artículo de la veda electoral antes citado. Si leemos el Artículo 8.009 encontramos que de su prohibición están excluídos entre otros:

"2. otros gastos y obligaciones estatutarias,..."

No hay duda de que el gasto a incurrirse por los Municipios al aplicar el Salario Mínimo Federal es un "gasto estatutario" y por lo tanto, está excluído de la veda electoral.

De todas formas, aún si interpretáramos el Artículo 8.009 de tal manera que confligiera con el mandato federal y determináramos que, efectivamente, la implantación del Salario Mínimo Federal violara la veda electoral, debe aplicarse la legislación federal.

La Constitución de los Estados Unidos en su Artículo VI, Cláusula II, conocida como Cláusula de Supremacía[1], dispone que las leyes del Congreso prevalecerán sobre las leyes de los estados y por ende de los territorios. Esto significa que en caso de conflicto entre una ley estatal y una federal debe obedecerse la ley federal y debe entenderse desplazada la ley estatal.

En otras palabras, los Municipios deben aplicar el Salario Mínimo Federal aún si ello significara hacer caso omiso a la prohibición del Artículo 8.009. Naturalmente, los Alcaldes y las Asambleas Municipales no incurren en responsabilidad de tipo alguno por actuar de acuerdo a la directriz federal a expensas de la estatal.

Por su parte, la Oficina Central de Administración de Personal notifica que a partir del 1 de octubre de 1996, los empleados municipales, sean éstos de Confianza, de Carrera, Transitorios o Irregulares, están cubiertos por el nuevo salario mínimo federal de $4.75 la hora. Este eleva el sueldo mensual a $772.00 sobre la base de 37.5 horas semanales y a $823.00 para una jornada de cuarenta (40) horas semanales. Efectivo al 1 de septiembre de 1997 aumentará a $837.00 y $893.00 sobre la base de 37.5 y 40 horas semanales respectivamente.

Contrario a años anteriores, este cambio en sueldo no se efectuará en forma escalonada, por lo cual será necesario que los gobiernos municipales hagan los ajustes pertinentes para dar fiel cumplimiento a las disposiciones de la Ley de Normas Razonables del Trabajo.

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[1]/"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding".

A su vez, se notifica que quedan excluídos de la prohibición electoral, establecida en el Artículo 12.014 de la Ley Núm. 81, supra, los cambios en sueldo que se efectúen a aquellos empleados a quienes sea necesario ajustarle el sueldo para atemperarlo al salario mínimo federal.

La concesión de este aumento no conllevará ajuste de sueldo a los tipos retributivos de la escala, ni afectará el margen retributivo que tienen disponibles los empleados para mejoramiento salarial. Los sueldos resultantes de acciones de personal que se efectúen con posterioridad, se ajustarán a escala.

Este nuevo salario mínimo tiene el efecto de tornar inoperantes los vigentes Planes de Retribución de un número considerable de los municipios. No obstante, éstos deberán continuar usándose para determinar los montos de las diferentes acciones de personal, tales como aumentos de sueldos por méritos, diferenciales, ascensos, traslados y otros.

Recomendamos que, efectivo al 1 de septiembre de 1997, cuando entrará en vigor el nuevo salario mínimo de $5.15 la hora, se adopten nuevos Planes de Retribución diseñados a base de dicho salario.

Los municipios podrán utilizar el Informe de Cambio Especial que se aneja para registrar los cambios en el sueldo de los empleados que se beneficien con el nuevo salario mínimo federal.

Anejos

OCAP-15
Especial

Anejo 3

_____
Municipio

INFORME DE CAMBIO ESPECIAL NUM._____

Se notifica el siguiente cambio en el sueldo de este empleado, en virtud de la Ley de Normas Razonables del Trabajo, enmendada. Este cambio en sueldo cumple con el salario mínimo federal de **$4.75** por hora que aplica a los empleados de los gobiernos municipales, efectivo al 1 de octubre de 1996.

_____ _____
Empleado (nombre y dos apellidos) | Número de Seguro Social

_____ _____
Título de Clasificación | Número del Puesto

Sueldo Mensual

Antes del Cambio	Después del Cambio
$	$
Retiro_____	Retiro_____

Sueldo Mensual a Base de _____ Horas Semanales

Observaciones:_____

_____

_____ _____
Firma de la Autoridad Nominadora o su Representante Autorizado | Fecha

Statement of The President on the Signing of the Small Business Job Protection Act of 1996

AUGUST 20, 1996

THE WHITE HOUSE

Office of the Press Secretary

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 3448, the "Small Business Job Protection Act of 1996."

This is important and long overdue legislation that provides a badly needed pay raise for millions of Americans and their families who struggle to make ends meet while working at the minimum wage. The Act boosts the minimum wage in two steps -- a 50 cent increase from $4.25 to $4.75 an hour that takes effect October 1, followed by an additional 40 cent rise to $5.15 an hour on September 1, 1997. This increase will help some 10 million of our hardest pressed working families build a better future. It is true to the basic American bargain that if you work hard you ought to have food on your table and a living wage in your pocket. It is the right thing to do.

I should note that I disagree with certain provisions added to the minimum wage title of the Act, such as the provision creating a new subminimum wage for young people and the one denying increased cash wages to most employees who rely on tips for part of their income. Still, those defects do not obscure the central accomplishment of this Act -- securing the first minimum wage increase since 1991.

Beyond raising the minimum wage, this Act represents real progress on a number of other fronts.

First, I am particularly gratified by the important provisions in this Act concerning adoption. The Act provides a nonrefundable tax credit of up to $5,000 per child for adoption expenses; $6,000 for children with special needs. It will help thousands of children waiting for a family who wants them. It will help thousands of middle class parents realize their dream of adopting a child. It will build stronger families and stronger communities.

Moreover, the Act bars placement agencies that receive Federal funds from denying or delaying adoptions based on race, color, or national origin. As I have consistently said, it is time to end the historical bias against interracial adoptions. That bias has too often meant interminable delay for children waiting to be matched with parents of the same race. It is time to put the creation of strong and loving families first.

Second, the Act creates a simplified, 401(k) retirement plan for small businesses, making it far easier for such companies to offer pensions to their employees. This new plan includes many of the pension reforms my Administration proposed more than a year ago. For example, it increases the portability of pensions, allowing more new workers to start saving for retirement from their first day on the job. It cuts the vesting period for workers in multiemployer plans from 10 years to 5, immediately vesting over 1 million workers in their benefits. It repeals the so-called ?family aggregation rule,? which limited the retirement benefits of family members working together in the same business. It allows

nonprofit organizations and Indian tribes to maintain 401(k) plans for their workers; assures veterans they will have continued pension coverage if they return to a civilian job after military service; and makes pension benefits safer and more secure for millions of employees of State and local governments. The pension provisions in the Act are not perfect -- they provide a smaller share of benefits to lower and middle wage workers than I proposed. But they are a significant step in the right direction.

Third, the Act gives a boost to small business by increasing the amount of capital that small businesses can write off as an expense. I proposed a $15,000 increase in 1993 in order to encourage the kind of investment that creates new growth and jobs. The Congress passed half of what we advocated then and this legislation gives us the other half. Although the measure in this Act is phased in more slowly than I proposed, it will still give small businesses a good incentive for capital investment.

Fourth, the Act extends the research tax credit, an important measure for a high-tech economy that will retain its competitive edge in the 21st century only if we remain committed to innovation and the research that underlies it. I wanted the Congress to go further by reinstating the research credit retroactively to July 1, 1995, when it last expired, and making it permanent. But this extension, through May of next year, is an important step forward.

Fifth, the Act extends a tax incentive for businesses that train and educate their employees. That incentive excludes from an employee's taxable income as much as $5,250 of educational assistance provided by an employer. Such assistance is another key element in maintaining U.S. competitiveness because a better trained, better educated work force is vital to achieving higher productivity. I regret that the Congress failed to make this incentive permanent and that it has eliminated the incentive for post-graduate education. But in extending the incentive for undergraduate education through May 1997, the Act takes a useful step.

Sixth, by replacing the expiring Targeted Jobs Tax Credit (TJTC) with a new Work Opportunity Tax Credit, the Act provides a significant incentive for employers to hire people from certain targeted groups most in need of jobs, such as high-risk youth. I am pleased to see improvements that address many of the concerns raised about implementation of the TJTC. For example, the minimum employment period required before an employer becomes eligible for the credit will promote longer, more meaningful work experiences for those hired

As strong a piece of legislation as this is overall, however, I am concerned about three provisions, two of which I objected to when they were included in legislation I vetoed last year.

The first provision repeals the tax credit related to corporate investments in Puerto Rico and other insular areas. I urged the Congress to reform the credit and use the resulting revenue for Puerto Rico's social and job training needs. My proposal would have, over time, prevented companies from obtaining tax benefits by merely attributing income to the islands, but it would have continued to give companies a tax credit for wages and local taxes paid and capital investments made there, as well as for earnings reinvested in Puerto Rico and qualified Caribbean Basin Initiative countries. This legislation ignores the real needs of our citizens in Puerto Rico, ending the incentive for new investment now and phasing out the incentive for existing investments. I remain committed to my proposal for an effective incentive based on real economy activity that preserves and creates jobs in underdeveloped islands, and I hope that the Congress will act to ensure that the incentive for economic activity remains in effect.

A second provision repeals a 1993 initiative of this Administration that reduces tax incentives for U S companies to move jobs and operations abroad. Repeal of this provision will allow businesses to avoid taxes by accumulating foreign earnings without limit.

Finally, I have reservations about a provision in the Act which makes civil damages based on nonphysical injury or illness taxable. Such damages are paid to compensate for injury, whether physical or not, and are designed to make victims whole, not to enrich them. These damages should not be considered a source of taxable income.

Notwithstanding these objections, this is important, forward-looking legislation. It gives millions of hard-pressed workers a well-deserved raise, will make adoption a reality for thousands of grateful families and children, takes a good first step toward providing adequate retirement benefits and security for employees of small businesses, and creates useful tax incentives for the benefit of small businesses and their employees. Where there are improvements yet to be made, we will continue to work with the Congress to make them.

WILLIAM J. CLINTON

Source: The White House Web Site

Employment Standards Administration
Wage and Hour Division

ESA Fact Sheet No. 96-13

FAIR LABOR STANDARDS ACT AMENDMENTS OF 1996

The Department of Labor administers and enforces the Fair Labor Standards Act (FLSA) through the Wage and Hour Division of the Employment Standards Administration. The FLSA requires that most employees in the United States be paid at least a minimum wage and overtime pay at time and one-half the regular rate of pay after 40 hours in a workweek. In addition, the law includes child labor and recordkeeping provisions. In August 1996, the Fair Labor Standards Act was amended to provide a two-step increase in the minimum wage and a subminimum rate for youth during their first 90 days of employment. The amendments also change certain provisions of the FLSA with respect to the tip credit that can be claimed by employers of "tipped employees"; an exemption for certain computer professionals; and home-to-work travel time in employer-provided vehicles. The amendments are summarized below.

MINIMUM WAGE

The FLSA minimum wage increases to $4.75 an hour on October 1, 1996, and to $5.15 an hour on September 1, 1997.

YOUTH SUBMINIMUM WAGE

A subminimum wage -- $4.25 an hour -- is established for employees under 20 years of age during their first 90 consecutive calendar days of employment with an employer. Employers are prohibited from displacing employees in order to hire youth at the subminimum wage. Also prohibited are partial displacements such as reducing employees' hours, wages, or employment benefits.

TIP CREDIT

An employer may credit a certain amount of the tips received by tipped employees (e.g., waiters and waitresses) against the employer's minimum wage obligation when certain conditions are met. The law now sets the employer's cash wage obligation at not less than $2.13 an hour. This replaces the former provision requiring that tipped employees be paid at least 50 percent of the minimum wage in cash. However, if an employee's tips combined with the employer's cash wage of $2.13 an hour do not equal the minimum hourly wage, the employer must make up the difference.

COMPUTER EXEMPTION

The exemption from overtime pay for certain computer professionals now exempts these workers if they are paid at least $27.63 an hour. This replaces the former requirement that they be paid an hourly rate of at least 6½ times the minimum wage.

TRAVEL TIME IN EMPLOYER VEHICLES

Time spent in home-to-work travel by an employee in an employer-provided vehicle, or in activities

performed by an employee which are incidental to the use of the vehicle for commuting, is not "hours worked" and, therefore, does not have to be paid. This provision applies **only if** the travel is within the normal commuting area for the employer's business and the use of the vehicle is subject to an agreement between the employer and the employee or the employee's representative.

☆ **Where state law requires a higher minimum wage, the higher standard applies.** ☆

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