WORKERS WITH DISABILITIES  
Subminimum wages under section 14(c) are not applicable unless a worker’s disability actually impairs the worker’s earning or productive capacity for the work being performed. A “subminimum wage rate” is based on the worker’s individual productivity, no matter how limited, in proportion to the wage and productivity of workers who do not have disabilities. The productivity of the worker with a disability is measured against the wage paid to experienced workers who do not have disabilities that impact their productivity when performing essentially the same type, quality, and quantity of work in the geographic area from which the labor force of the worker’s individual productivity, no matter how limited, is drawn.

For purposes of payment of commensurate wage rates under a certificate, a worker with a disability is defined as: An individual whose earnings or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed.

Disabilities which may affect productive capacity include an intellectual or developmental disability, psychiatric disability, a hearing or visual impairment, and certain other impairments. The following do not ordinarily affect productive capacity for purposes of paying commensurate wage rates: educational disabilities; chronic unemployment; receipt of welfare benefits; nonattendance at school; juvenile delinquency, and correctional parole or probation.

WORKER NOTIFICATION  
Each worker with a disability and, where appropriate, the parent or guardian of such worker, must be informed orally and in writing by the employer of the terms of the certificate under which such worker is employed.

KEY ELEMENTS OF COMMMENSURATE WAGE RATES  
- Nondisabled workerstandard. The objective gauge (usually a time study of the production of workers who do not have disabilities that impair their productivity for the job) against which the productivity of a worker with a disability is measured.

- Productivity of the worker with a disability—The wage paid to experienced workers who do not have disabilities that impair their productivity for the same or similar work and who are performing such work in the area. Most SCA contracts include a wage determination specifying the prevailing wage rates to be paid for SCA-covered work.

- Evaluation of the productivity of the worker with a disability—Documented measurement of the production of the worker with a disability (in terms of quantity and quality).

The workforces of all workers paid commensurate wage rates must be reviewed, and adjusted if appropriate, at periodic intervals. At a minimum, the productivity of hourly-paid workers must be reevaluated at least every six months and a new prevailing wage survey must be conducted at least once every twelve months. In addition, prevailing wages must be reviewed, and adjusted as appropriate, whenever there is a change in the job or a change in the prevailing wage rate, such as when the applicable state or federal minimum wage is increased.

EXECUTIVE ORDER  
Executive Order 13658, Establishing a Minimum Wage for Contractors, established a minimum wage that generally must be paid to workers performing on or in connection with a Federal Government contract with the Federal Government. Workers covered by this Executive Order and due the full Executive Order minimum wage include workers with disabilities whose wages are calculated pursuant to certificates issued under section 14(c) of the FLSA.

FRINGE BENEFITS  
Neither the FLSA nor the PCA have provisions requiring vacation, holiday, or sick pay payments. The PCA does require such fringe benefit payments (or a cash equivalent). SCA wage determinations may require such fringe benefit payments (or a cash equivalent). Workers paid under a certificate authorizing commensurate wage rates must receive the full fringe benefits listed on the SCA wage determination.

OVERTIME  
Generally, if a worker is performing work subject to the FLSA, SCA, and/or PCA, that worker must be paid at least 1 1/2 times their regular rate of pay for all hours worked over 40 in a workweek.

CHILD LABOR  
Minors younger than 18 years of age must be employed in accordance with the child labor provisions of the FLSA. No employer may employ persons under 16 years of age in an occupation determined to be injurious or hazardous to such minors.

PETITION PROCESS  
Workers with disabilities paid at subminimum wages may petition the Administrator of the Wage and Hour Division of the Department of Labor for a review of their wage rates. The petition must be conducted at least once every twelve months. In addition, prevailing wages must be reviewed, and adjusted as appropriate, at periodic intervals. At a minimum, the productivity of hourly-paid workers performed. The fact that a worker may have a disability is not in and of itself sufficient to warrant the payment of a subminimum wage.

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