

# InterOffice Memo

Department of Workforce Development

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To: Job Center Staff, Job Order Writing Staff, and Supervisors

From: Brian Solomon, Director,  
Job Service Bureau

Subject: **Madison Minimum Wage Law and Job Orders**

The City of Madison enacted a local minimum wage effective January 1, 2005. The Madison minimum wage is higher than the state minimum wage. Job orders for employment covered by the Madison ordinance must meet the requirements of this ordinance.

Changes have been made to the Job Order Policies and Procedures (A6) to require compliance with local ordinances. A procedure for determining when to apply the Madison ordinance to a job order has been developed.

## Change in Policy:

Effective immediately, **A6. Compensation Methods** is changed as indicated. Changes to existing policy are emphasized.

### **A6. Compensation Methods (Commission, Performance-based, Incentive, and Piecework Jobs)**

State law requires that all employees be paid at least minimum wage for all covered employment regardless of the method of compensation. A job order should clearly state the method of compensation: salary, salary plus commission, straight commission (also known as commission only), performance-based, incentive, or piecework. To be listed on JobNet, all job orders must provide total compensation of at least the minimum wage for any hours worked or spent in required training. **Federal, state, and local-municipal laws and ordinances apply. Apply the higher or most stringent law when there is a conflict.** Jobs that pay straight commission cannot be included if they only pay when a product is sold, and do not guarantee the worker at least a minimum wage for the hours worked. Employers should be informed at the time of listing that the minimum wage law applies.

The complete Job Order Policy and Procedures is located at [http://www.dwd.state.wi.us/dws/staff/job\\_order/policies\\_procedures/default.htm](http://www.dwd.state.wi.us/dws/staff/job_order/policies_procedures/default.htm).

## Procedure:

Most Madison employers are subject to the ordinance. All employees within the city of Madison employed by private or non-profit organizations, regardless of the method of compensation, must be paid at least the city minimum wage for each hour of work performed. This includes the hours worked within the city limits of Madison for those

employees whose place of employment is located outside the city limits and who work a minimum of at least two hours of their workweek in the City of Madison. There are exceptions stated in the ordinance.

For the purpose of a job order, staff should use the following procedure. Staff are not expected to make a legal determination as to whether the city ordinance applies to the employment situation. Compliance with applicable employment laws is the responsibility of the employer. Questions about the city ordinance should be referred to the City of Madison Equal Opportunities Commission at (608) 266-4910. Information on the minimum wage is at <http://www.cityofmadison.com/eoc/MinWage.htm>.

1. If the job pays more than the Madison minimum wage, no additional action is needed. Take the job order as you would any other job order.
2. If the job order pays less than the Madison minimum wage, the occupation is *not* an exception stated in the ordinance, and it is listed with Dane County as the work site location, ask the employer the following two questions.

- **“Is the work site located within the Madison city limits?”**

*If the answer is “yes,” the job order must state at least the appropriate city minimum wage. If the answer is “no,” proceed to the next question.*

- **“Will the employee work at least 2 hours of their workweek within the Madison city limits?”**

*If the answer is “yes,” the job order must state at least the appropriate city minimum wage. If the answer is “no” then the job order need not comply with the Madison ordinance but must comply with federal and state minimum wages laws. Take the job order as usual. See 5 below.*

3. If the employer does not know the answers to these questions, then they need to find out. Staff can assist, if appropriate, or refer them to the Madison Equal Opportunities Commission. The job order should remain in pending status.
4. Job orders covered by the ordinance, as determined above, that pay less than the Madison minimums will be declined. Staff may decline job orders not meeting the required minimum wage if they have reason to believe the ordinance *should* apply or if they believe the employer misrepresented the situation. If there is doubt about a job being an exception under the ordinance, the employer will be asked to provide a statement from the city verifying that the situation is an exception and not covered.
5. Job orders for which the employer answers “no” to both questions, and which have Dane County listed as a work site, will have the following mandatory statement added to the “Additional Pay Information” field of the job order:

Work performed within the city limits of Madison may be covered by a higher city minimum wage.
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**Action Required:**

1. All staff involved with writing job orders should be aware of this policy change. If you take a job order with a Madison work site, this policy applies.
2. Staff involved with writing job orders in the South Central area should become familiar with the city ordinance (the fact sheet linked to above) and the procedure outlined in this memo.
3. Although the Madison ordinance is facing legal challenges, it is the law at this time. This policy should be applied, as needed, to all job orders with Dane County as the work site.

If you have any questions, please contact Phil Anderson at (608) 261-6974 or [philip.anderson@dwd.state.wi.us](mailto:philip.anderson@dwd.state.wi.us).