FLSA-835

May 14, 1984

This is in further response to your letter, with enclosures, concerning employees subject to the minimum wage requirements of section 6 of the Fair Labor Standards Act (FLSA). Specifically, you wish to know if the cost of fingerprinting an employee to meet a State requirement may be legally deducted from the individual's pay where it has the effect of reducing the cash wage below the minimum required.

FLSA requires that all covered and nonexempt employees be paid a minimum wage of $3.35 an hour and not less than one and one-half times their regular rates of pay for all hours worked over 40 in a workweek. Section 3(m) of the Act defines the term "wage" to include the "reasonable cost" to an employer of furnishing any employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by an employer to employees. As stated in section 531.32 of 29 CFR Part 531, copy enclosed, 'other facilities,' as used in this section, must be something like board or lodging. An employer may make deductions from employees' wages for the reasonable cost of such facilities furnished employees for their benefit. These deductions are permissible even if the result is to reduce an individual's wages below the statutory minimum.

It is our opinion that fingerprinting an employee to comply with a State requirement as described in your letter is not a "facility" such as board or lodging furnished for an employee's benefit. The cost of fingerprinting in this case is properly a business expense to be borne by the employer. Therefore, a deduction may not be made from the wages of an employee for the cost of the fingerprinting you describe if such deduction reduces the wages of the employee below the applicable minimum wage or reduces the amount of overtime compensation which may be due under the Act.

We trust this is of assistance to you. If you have any further questions, please do not hesitate to let us know.

Sincerely,

William M. Otter
Administrator

Enclosure