The Fair Labor Standards Act ("FLSA") requires employers to pay most workers (i) at least the federal minimum wage of $7.25 for each hour worked, and (ii) overtime for hours worked over 40 in a workweek. The law contains special rates and provisions for students, apprentices, tipped employees, and certain disabled workers, and overtime pay exemptions and special requirements for executive, administrative, professional, and outside sales employees and workers covered under collective bargaining agreements. These special rules are outside the scope of this article; however, certain of these exemptions may change in the future: President Obama signed a memorandum on March 13, 2014 that begins the process of updating the Fair Labor Standards Act's overtime rules for administrative and professional workers to provide more coverage under the overtime rules for these groups.

Unless an employee falls within one of the exemptions or is covered by a collective bargaining agreement, if an employee is required or allowed to work more than 40 hours in a workweek, Public Housing Authorities (PHA) must pay overtime at the rate of one and one-half times the employee’s regular rate of pay. Employees may receive compensatory time off in lieu of overtime pay at a rate not less than one and one-half hours for each hour of overtime worked, provided certain conditions are met: (i) the PHA and employee must agree to the comp time in lieu of overtime pay arrangement before the work is performed; and (ii) the employee cannot accrue more than 240 hours of unused comp time (480 hours for public safety, emergency response and seasonal workers). If the employee has accumulated the maximum number of hours of comp time, then the employee must be paid overtime at one and one-half times the employee’s regular rate. (Please note that different rules apply and comp time is generally unavailable for employees in the private sector.)

The employee must be allowed to use the comp time within a reasonable period after making a request, so long as the use of the comp time does not “unduly disrupt” the PHA’s operations. In the event that the employee does not use the comp time prior to termination of employment, the employee must be paid for all unused comp time at a rate not less than (i) the average rate received by the employee during the last 3 years of employment, or (ii) the final regular rate received by the employee, whichever is higher.

There are a number of common misconceptions about FLSA coverage and requirements. FLSA does not govern, require, or limit:

- Premium pay for scheduled work on weekends, nights or holidays;
- Vacation, sick or severance pay; or
- The number of hours in the day or days in the week that the employee may work, so long as the employee is at least 16 years of age and beyond the reach of child labor laws.

All of the foregoing issues are matters to be negotiated between the PHA and its employees, provided that the employee has not worked more than 40 hours in a given workweek. A workweek is not necessarily the calendar week, but rather is determined by the employer and is “a fixed and regularly recurring period of 168 hours, seven consecutive 24-hour periods.”

Employees are required to be paid for all time that they are “on duty” or required to be at the PHA’s place of business or job site. If an employee is performing productive services or waiting for work at the PHA’s request, the time constitutes “time worked” and is included in the calculation of number of hours worked in the workweek.

The overtime compensation requirements of the FLSA are subject to enforcement by the Wage and Hour Division of the Department of Labor, as well as by employee-initiated lawsuits to recover unpaid wages.
The Department of Labor reports that violations of wage and hour law are on the rise, and FLSA lawsuits are increasingly being brought against businesses and nonprofits, based on both violations of the overtime pay amounts, and in application of the exemptions from the overtime rules. For example, in May of 2014, Bank of America Merrill Lynch Corp. reached a $6.9 million class action settlement regarding overtime pay with advisors who had been treated as exempt employees. The three original adviser plaintiffs, who worked in the company's bank branches, sued the firm, claiming that they had been misclassified as exempt from overtime and were owed pay on the hours they worked outside of the traditional 40-hour work week.

Generally, lawsuits must be brought within two years of the violation of the FLSA requirements, as the statute of limitations is two years, or three years in the case of a willful violation. The typical remedy for violation of the FLSA is the required payment of back wages and interest, although fines and penalties may be assessed, and the law provides for a violating employer to pay the employee’s attorney's fees and costs.

To control the cost of overtime and limit the potential exposure for unpaid overtime, it is a good idea to have a strict written policy in place governing when overtime may be worked and who may authorize it. Employees may allege that they have been allowed or forced to work “off the clock,” answering the phone during their lunch break or responding to tenant calls prior to the start of the work day or as they are walking out the door. The policy should require that overtime hours be immediately reported so that overtime misuse or abuse may be quickly addressed.

Employers frequently receive information and advertising from companies with information about federal and state requirements for required employer posters. This aggressive marketing advises that it is critical that the posters be purchased at significant expense from the company.

While employers need to place the required posters where employees will have the opportunity to review them and ensure that the posters meet current requirements, both the federal and state posters are available free to employers. Federal and state websites provide all of the necessary information for an employer to stay up-to-date on poster requirements.

**Federal Assistance:**
The Department of Labor (DOL) provides a website to assist employers in determining what is currently required.

See: [http://www.dol.gov/elaws/posters.htm](http://www.dol.gov/elaws/posters.htm)

This site links to the FirstStep Poster Advisor, which is designed to help employers comply with the poster requirements of several laws administered by the Department of Labor. These laws require employers to display official DOL posters where employees can readily observe them. DOL provides the posters at no cost to employers.

**Missouri Assistance:**
The Missouri Department of Labor provides an overview of the posters which are required for both federal and state compliance. These requirements may be met by acquiring separate “All in One” posters for federal and state requirements, or individual posters may be printed out from the website. See: [http://labor.mo.gov/posters/](http://labor.mo.gov/posters/)

This website also provides a link to Missouri Division of Workforce Development Business Representatives, who will provide the federal and state all-in-one posters at no cost. Each representative works with a particular section of the state. Information on how to reach your representative is listed at: