

Regional Arts Development Fund (RADF)

Fee Negotiation Schedule: Community Cultural Development Workers

Introduction

The following information has been taken from the Queensland Community Arts Network (QCAN) website www.uqp.uq.edu.au.

This fees schedule has been developed by the Queensland Community Arts Network in consultation with its membership, other industry bodies and funding bodies. It is designed to help community arts and cultural development workers and employers negotiate fees that reflect an industry standard. Because of the diversity of our field of practice, it is impossible to standardise a method of quoting that will suit all situations. Therefore, this schedule acknowledges the need for flexibility and offers options and guidelines that will help you conduct your business professionally.

This document is designed to assist workers who are **not covered** by a specific award. If the work being done is covered by an award, employers and workers should refer to the relevant award for the appropriate minimum rates of pay.

While this schedule is based on hourly rates of pay, some fields of practice and some projects are more focused on outcomes or product, e.g. written work or public artwork. Some workers may choose to quote on finishing the job rather than by the hour. In such cases, it is important that the expectations of both the employer and the worker are outlined in a contract. The Arts Law Centre of Queensland supplies standard contracts that can be modified to meet the needs of most arts and cultural development workers.

It is not envisaged that consultancies such as lecturing or training delivery be covered by this schedule, however workers undertaking these sort of consultancies may find some of the considerations within the schedule useful.

1. Decide first which level is appropriate for the position in question

Level 1. A worker with limited experience. Will have some experience conducting workshops and a sound knowledge of and proficiency in their field of practice.

Level 2. A worker with experience as a project leader. Can show quality results from having collaborated with people outside the field of practice. Would be able to give technical instruction.

Level 3. A seasoned worker with a large body of quality work produced in a community context. Possesses a sound theoretical understanding of community cultural development and is able to design projects for specific results. This person can manage projects and provide mentorship training to less experienced workers.

2. Some issues to consider when determining the level of a position

Does the position require:

- someone with previous experience
- a worker with a great diversity of skills
- a worker with a high degree of skill in their field of practice
- a worker with knowledge and experience in working with this type of community
- facilitation, mediation or negotiation skills
- supervision skills.

Does the position involve:

- working with physically, emotionally or psychologically challenged people
- community consultation
- working with trainees or volunteers
- an increased degree of risk in the working environment
- negotiating with other parties, e.g. other organisations, other workers, local government, funding bodies etc.

The more of the points required the more likely the position is to be level 3.

3. Rates of Pay

(If the work is covered by an industrial award (refer to the relevant award.)

Now use the schedule below to determine a minimum rate of pay. This schedule was originally devised by Bill Kyle, then QCAN Office Manager, and Brian Tucker, CPA and QCAN Treasurer 2004. Brian has continued to update the schedule, drawing on his extensive knowledge of the arts industry. Remember: the rates included in this schedule of industry rates are merely the minimum rates that should apply and are not meant to restrict negotiations for higher rates of pay. Pay rates in any level are not restricted by the minimum rate in the level above.

	1	2# \$/h	3# \$/h	4# \$/h	5# \$/h
	Annual Salary - Full Time	More than 12 weeks	Less than 12 weeks	Less than 30 hrs total	Less than 8 hours total
Level 3	\$57,000	\$30.50	\$35.00	\$39.60	\$54.85
Level 2	\$45,000	\$24.00	\$27.65	\$31.20	\$43.25
Level 1	\$37,000	\$19.80	\$22.75	\$25.70	\$35.60
Trainee*	\$25,500	\$13.60	\$15.65	\$17.70	\$24.50
			(col2+15%)	(col2+30%)	(col2+80%)

Full-time based on 36 hours per week.

* This level may not apply if the employee is engaged under an official Training Scheme.

Loading covers leave loading, compensation for under employment and lack of benefits.

A very useful time and wages records template can be accessed at www.wagenet.gov.au under heading "Features" and click on Time and Wages Records and Pay Slips Templates.

Note: When considering the number of hours involved in a project, remember to include the time needed for all aspects of the activity, e.g. planning, preparation, purchasing materials, employing other staff, briefings, de-briefings, administration, report writing, documentation, acquittals etc.

4. Vehicle and Travel Payments

Travel to and from the project: Payment for travel time to and from a project can be negotiated separately and will depend on the circumstances involved. The length of the travel time involved, if the employer supplies transport, or if the worker uses their own vehicle etc. are all factors to be considered. The agreed amount (if any) should be stipulated in the contract of employment.

Use of own vehicle within the project: Should a worker be required to use their own vehicle for the business of the project, the worker should receive a vehicle allowance.

A guide to the amount payable can be viewed in Table 22A of the Australian Public Service Award website.

For 2005 the allowances set out by the ATO are as follows:

For vehicles above 2600cc: 63 cents per km; for vehicles 1601–2600cc: 62 cents per km, and for vehicles 1600cc and under: 52 cents per km.

5. Away-from-home Allowance

Where a worker needs to stay away from home overnight because a project is taking place outside of their city/town of residence, that worker is entitled to a Daily Travel Allowance* sufficient to cover the costs of reasonable board, lodgings, meals and incidentals. This may take the form of a reimbursement of actual costs incurred or the payment of a set daily allowance to the worker.

The Australian Tax Office (ATO) sets reasonable benefit limits for this type of allowance which vary upon location.

This means that if the worker receives a set daily allowance at or below the reasonable limit set by the ATO for that city/town, they can receive that allowance without any PAYG tax needing to be deducted, and it should not be included on any Pay As You Go Summary issued to the worker. (In this case, the ATO assumes it is spent and the worker is not even required to declare the allowance on their tax return or keep any documentation to show if they actually spent it). However, if the worker receives a set daily allowance above the reasonable limit, the total allowance is subject to income tax assessment and any expenses claimed against the income must be supported by documentation.

***Note:** the Daily Travel Allowance is only paid on a tax-free basis – to the recipient – if the worker has PAYG tax deducted from their earnings. Workers who invoice with an ABN and have no PAYG deducted must declare the DTA in their Income and claim a tax deduction for the actual (and documented) travel costs incurred. That is, they cannot claim an offsetting deduction.

If the worker is also registered for GST, then the Daily Travel Allowance would be increased by 10% to cover GST.

For extended engagements away from home, generally taken to be periods in excess of three weeks, and where the employer may be covering accommodation costs, the Daily Travel Allowance is replaced by a Living Away From Home Allowance which is intended to compensate the employee (i.e. someone

subject to PAYG withholdings) for the **extra** costs incurred in living away from the usual place of abode. To avoid Fringe Benefits Tax, the employee is required to complete a Declaration stating that they are living away from home.

Note: The LAFH provisions **do not** apply to foreign artswomen brought to Australia to work on a project. For these workers the payments are characterised as income and must be taxed along with the foreign national's fees.

The ATO Reasonable Benefits Limits for Australia can be viewed on the ATO webpage www.ato.gov.au.

A guide to what level of allowance is paid under Federal Awards can be found by visiting www.wagenet.gov.au.

6. Australian Business Number (ABN)

Under the new Australian tax system effective from 1 July 2000, all workers undertaking contract work as non-PAYE employees should obtain an ABN. If a person undertakes contract work after July 1 2000, and does not provide an ABN, the business contracting that person will be required to withhold 48.5% Pay As You Go tax from any amount payable.

The worker would then need to wait until they submitted their personal tax return for that year to claim back any excess tax paid. If however, you apply for an ABN and the ATO denies you one for some reason (e.g. that they deem you are not conducting a business) you are eligible to receive payment in full without any tax being withheld.

Note that you will not be required to have an ABN if you are engaged as a PAYE employee by an employer.

It is important to realise that **grants obtained from funding bodies are** considered to be **contract payments** and will be treated the same as other consultancy work. Thus, if you are intending to apply for a grant, the **applicant** (be it an individual, unincorporated group or incorporated organisation) **must have an ABN** (or have been denied an ABN). If the applicant does not have an ABN the funding body will be compelled to withhold 48.5% of the grant under the PAYG system. What is important is the status of the actual applicant (i.e. the contracting party with the funding body), so **applicants will need to apply for an ABN** even if it is intended that the grant be auspiced by an organisation that has an ABN.

If the worker is deemed by the ATO to be not carrying on a business, or if the worker does not consider the activity to be in the nature of a business, for example, a 'one-off' activity, then the worker should complete a Statement By a Supplier Form attesting to that fact. This may also apply to community groups, for example, where the project is not part of a continuing pattern of activity.

It is possible to get an ABN that will exist for the life of the project and, particularly for smaller organisations, this is recommended as it removes the uncertainty which often surrounds the Statement By A Supplier.

More information about ABNs can be found by viewing www.ato.gov.au.

7. GST

A decision on whether to register for GST is separate from the decision to apply for an ABN. If the turnover of your business/consultancy work is over \$50,000 it is compulsory to obtain an ABN and register for GST. If the value of your business/consultancy work is below \$50,000 it is optional to register for GST. If you are a not-for-profit entity the threshold is \$100,000.

If you do register for GST you are required to collect 10% GST (and if you do not explicitly charge 10% GST, one eleventh of the fees collected will be considered to be the GST amount) on top of all amounts you charge for consultancies/projects etc. However, you are eligible to claim input tax credits back on the GST you pay if they are related to you earning income in your business. If you are not GST registered, you cannot charge GST on any work carried out and you are unable to claim back any GST you pay in carrying out your business but you are able to claim a tax deduction for the GST paid.

Therefore if you are GST registered, you should budget excluding GST costs and then charge 10% on top of your price (this includes grant applications). If you are not GST registered, you should budget including your GST costs but not charge GST on your invoice total.

Note that GST is **not payable** on any wages paid to workers employed as PAYE employees.

The decision on whether to optionally register for GST can be complex. For further discussion of some of the factors to consider, some more detailed information and ATO links regarding ABNs and GST, there is an informative ATO page at www.ato.gov.au.

8. Superannuation

Compulsory employer superannuation contributions must be paid on behalf of PAYE employees. Superannuation must also be paid on behalf of contractors with an ABN when the fee is for the provision of services that are 50% or more labour. The exception to this is where the contractor has the ability to subcontract the work to a third party, or where the contractor employs/engages other workers. This is a very murky area so seek advice for your case alone.

From 1 July 2002, the superannuation rate is 9%. Contributions are sent to the employee's superannuation scheme on their behalf and are calculated by multiplying the employee's gross wage (before tax) by the contribution rate. Unless otherwise stated these payments are on top of the contracted rate of pay.

From 1 July 2003, employers are required to make sufficient superannuation contributions (for eligible employees who are paid at least \$450 per month) per quarter, and they should be aware of reporting requirements.

More information about superannuation can be obtained from the ATO Superannuation Information Line on 13 1020.

The ATO Superannuation guarantee is located at www.ato.gov.au.

9. WorkCover Insurance

In Queensland, prior to 1 July 2000, WorkCover premiums were required to be paid only on the wages earned by PAYE employees. However, after 1 July 2000, WorkCover premiums may also be required to be paid on labour payments made to some contractors.

If you are engaging contractors (and as for superannuation, with an ABN) and that contractor is supplying a 50% + labour service, you will be required to cover that contractor for WorkCover Insurance. Again, the exception is where the contractor engages others to do, or assist in, the work. If the contractor has their own WorkCover Policy for their own contractors/employees, you should ask for the Policy Number. Again, if you are in doubt as to whether the worker should be covered, contact WorkCover.

If you are doing contract work and want to be covered by insurance similar to WorkCover, you can take out Personal Injury Insurance through WorkCover (the minimum premium is around \$270) or any commercial insurance company.

Information regarding WorkCover can be obtained from the WorkCover website at: www.workcover.qld.gov.au or Ph: 1300 362 128.

10. Own Equipment and Material Use

The rates of pay in section 3 relate solely to the labour component of any position. Where a worker uses or supplies their own equipment (including use of their own phone) and/or materials for a job or project, a separate payment should be negotiated to cover this. Alternatively a higher rate of pay per hour may be negotiated to include the use of the workers own equipment and/or materials.

11. Employee Benefits (e.g. leave loading/sick benefits)

Employee benefits such as leave loading and sick pay will usually only apply if a person is being employed as a PAYE employee fulltime or temporary. They would not usually apply to workers employed as a casual (even if a PAYE employee) or any sort of contractor. The status of employment should be clearly stated in the contract of employment along with any entitlement the worker may have to other benefits.

Up-to-date allowances can be checked at www.wagenet.gov.au.

QUEENSLAND COMMUNITY ARTS NETWORK (QCAN)

Postal: PO Box 904, New Farm, Qld 4005, Australia

Street: Level 2, Stores Bldg, Brisbane Powerhouse, 119 Lamington St, NEW FARM QLD 4005

Phone: +61 7 3254-4922 Fax: +61 7 3254-4977

Research & Information: Brian Tucker & Val Keenan