

# TESTS FOR EXEMPTION OF EMPLOYEE FROM PROVISIONS OF FAIR LABOR STANDARDS ACT

Section 13(a)(1) and Section 13(a)(17) of the FLSA provides an exemption from both minimum wage and overtime pay for certain employees. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements. Please use this form<sup>1</sup> to verify exempt employees' eligibility.

## Section One

Employee Name: Vacant

Date: 3/1/2012

Position Title: Lactation Consultant

Slot Number: 243

Department: WIC

Department Number: 350

## Section Two

To qualify for the FLSA employee exemption under one of the following categories, all of the following tests must be met. Please check the box to confirm the tests are met.

### Executive Exemption

- The employee must be compensated on a salary basis at a rate not less than \$455 per week;
- The employee's primary duty must be managing the County or District, or managing a customarily recognized department or subdivision of the County or District;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

### Administrative Exemption

- The employee must be compensated on a salary or fee basis at a rate not less than \$455 per week;
- The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

### Professional Exemption

- The employee must be compensated on a salary or fee basis at a rate not less than \$455 per week;
- The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

### Computer Employee Exemption

- The employee must be compensated either on a salary or fee basis at a rate not less than \$455 per week or, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
- The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below;
- The employee's primary duty must consist of:
  1. The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
  2. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
  3. The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
  4. A combination of the aforementioned duties, the performance of which requires the same level of skills.

## Section Three

Basis for Exemption (Select One):

- Executive     Professional     Administrative     Computer     Does Not Qualify

Naomi L. Long  
Department Head Signature

3/1/12  
Date

<sup>1</sup> From US Department of Labor Fact Sheet #17A