

## CONTRACT LABOR COMPLIANCE INFORMATION

The following Federal and State Labor law information is an outline to assist you in fulfilling your contract obligation. If you have specific questions regarding these regulations, contact the project manager or the field coordinator for this project.

On projects covered by the Davis-Bacon Act, the "Required Contract Provisions - Federal-Aid Construction Contracts" (FHWA-1273, revised March 10, 1994) must be physically attached by the prime contractor to the original and duplicate original of each subcontract and kept on file by the prime and the subcontractor.

All workers on the job site who perform part of the contract work as an employee of the prime contractor, the subcontractor, or other person who furnishes on-site labor are covered under the contract labor provisions. The term "job-site" includes any location or facility which, although geographically separated from the project location, is designed to serve exclusively or nearly exclusively the needs of the particular project. Employees of material suppliers, who also sell to the public, are covered by the labor provisions if they perform work at the project site.

Covered employees on public works projects first advertised on or after January 1, 2006 must be paid the higher of Davis-Bacon or BOLI wage rates.

### Required Postings

The following must be posted on the job site in a place accessible to all employees.

- ODOT Prevailing Wage Rate Complaint Form (734-2547)
- Equal Employment Opportunity is THE LAW
- Notice to All Employees Working on Federal or Federally-Financed Construction Projects (WH Publication 1321)
- Prevailing Wage Rate Information
- Fringe Benefit Information
- Employees Work Schedule

### Employee Interviews

Part V.2.g. of the Required Contract Provisions permits the interview of contract employees during working hours or by letter concerning wage rates. (These interviews may clarify problem areas before they become violations.)

## Payrolls

- Weekly certified payrolls are required from all contractors (prime and sub). This packet contains a check-list of all required elements of a complete certified payroll.
- The attached "Certified Payroll Required Elements and Review Checklist for Project Managers and Contractors" is provided for your use.
- If there is an underpayment of wages, a supplemental certified payroll must be submitted showing that restitution has been made. The supplemental payroll should show only the amount paid to the employee as restitution of wages due, not the total paid to the employee for the week in which there was underpayment. Additional proof of payment may be requested (copies of both sides of the check; a signed receipt from the employee; or an employee's signature on the corrected certified payroll.)
- It is to the contractor's benefit to promptly resolve any questions that arise concerning labor compliance on the project. Willful failure to pay any wages due, including fringe benefits, can result in liquidated damages or debarment.
- The prime contractor is responsible for subcontractor's labor compliance and could be responsible for restitution of wages due employees of the subcontractor.

### Other general information:

#### Employee Work Classification

- If an employee works in more than one classification (with varying pay scales), he/she must be paid not less than the appropriate wage rate.

#### Owner-Operator

- A driver who owns and operates his/her own truck on the project, and has proper PUC authority, may be shown on the contractor's payroll as an "owner-operator." No hours worked or wages paid need be shown.
- An owner-operator who has more than one truck on the project, and employs drivers to operate them on the project would be considered a subcontractor (but not in regard to the 50% subcontracting limitation). Either the prime or the subcontractor must submit payrolls verifying that the drivers have been paid contract wage rates.
- Equipment other than trucks are not covered in the "owner-operator" category. For such equipment, the contractor must compute separately the wages of the operator and the amount paid for the equipment rental. However, only the wages paid need

be shown on the contractor's payroll. A record of the amount paid for equipment rental should be retained by the contractor.

#### Watchmen and Guards

- Watchmen or guards who serve in no other capacity are not covered under the Davis-Bacon or BOLI Prevailing Wage laws. They are covered by the Contract Work Hours and Safety Standards Act (Overtime Act) and must receive time and a half for work over eight hours a day or 40 hours a week, in conformance with Oregon State Law pertaining to overtime and holidays. The straight time hourly rate must be at least the minimum rate under the Fair Labor Standards Act (the federal minimum wage rate).

#### On-Site Equipment Repair

- Employees of outside firms who repair or service tires or equipment at the project site are covered by the contract labor provisions if such work exceeds 20% or more of the employee's time in any workweek.
- Persons doing repair work at the job site under warranty agreements are not covered by the contract labor provisions.

#### Working Owners, Supervisors, and Foremen

- Prevailing wage rates apply to owners, supervisors, or foremen that spend more than 20% of their work week performing manual work.

#### Apprentices

- Apprentice wage rates are permitted if the employee is registered with the State Bureau of Labor and Industries. The contractor or subcontractor must furnish written evidence of the apprentice registration to the Project Manager.
- Employees may not be classified as apprentices unless they are in a registered training program and must be paid the full contract wage rate for the classification of the work performed.

#### In-House Trainees

- Trainees approved for credit toward the OJT bid item may be paid sub prevailing wages while performing work under an approved In-house Training Program.
- All work performed outside of the approved Training Program shall be paid at full prevailing wage for the classification of work performed.

- Employees may not be classified as Trainees unless they are approved by OCR and FHWA for credit toward the OJT bid item and/or OJT/apprenticeship goal.