

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS
OFFICE OF THE ADMINISTRATOR
WASHINGTON
20210

October 14, 1968

MEMORANDUM # 78

TO : AGENCIES ADMINISTERING STATUTES REFERRED TO IN
29 CFR, SUBTITLE A, PART 5

FROM : Clarence T. Lundquist, Administrator
Wage and Hour and Public Contracts Divisions

SUBJECT : 1. Poster - Notice to Employees Working on Federal
or Federally Financed Construction Projects,
WHPC Publication 1240

2. Pamphlet - Your Rights as an Employee on a
Federal or Federally Financed Construction Job,
WHPC Publication 1241

These are available from WHPC's Regional and District Offices
(addresses were listed in Memoranda # 75 and 76) or from its
National Office (address above).

The poster should be supplied to each contractor along with wage
rate decisions. The pamphlet may be given to interested parties.

Attachments 2

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Nebraska: *Grand Island, Lincoln, Omaha*
 Nevada: *Reno*
 New Hampshire: *Manchester, Laconia*
 New Jersey: *Camden, Newark, Paterson, Trenton*
 New Mexico: *Albuquerque, Las Cruces, Roswell*
 New York: *Albany, Bronx, Brooklyn, Buffalo, Hempstead, New York, Rochester, Syracuse*
 North Carolina: *Asheville, Charlotte, Durham, Fayetteville, Goldsboro, Greensboro, Hickory, High Point, Raleigh, Wilmington, Winston-Salem*
 North Dakota: *Bismarck*
 Ohio: *Cincinnati, Cleveland, Columbus*
 Oklahoma: *Ardmore, Enid, Lawton, Muskogee, Oklahoma City, Tulsa*
 Oregon: *Eugene, Medford, Portland, Salem*
 Pennsylvania: *Allentown, Altoona, Chester, DuBois, Erie, Greensburg, Harrisburg, Indiana, Johnstown, Lancaster, Lewisburg, McKeesport, New Castle, Philadelphia, Pittsburgh, Reading, Scranton, Uniontown, Washington, Wilkes-Barre*
 Rhode Island: *Providence*
 South Carolina: *Charleston, Columbia, Florence, Greenville, Spartanburg*
 South Dakota: *Aberdeen, Rapid City, Sioux Falls*
 Tennessee: *Bristol, Chattanooga, Columbia, Jackson, Johnson City, Knoxville, Memphis, Nashville*
 Texas: *Abilene, Amarillo, Austin, Beaumont, Corpus Christi, Dallas, El Paso, Fort Worth, Galveston, Harlingen, Houston, Laredo, Longview, Lubbock, Lufkin, Midland, Odessa, Paris, San Antonio, Texarkana, Tyler, Victoria, Waco, Wichita Falls*
 Utah: *Ogden, Salt Lake City*
 Vermont: *Burlington, Montpelier*
 Virginia: *Alexandria, Norfolk, Richmond, Roanoke, Waynesboro*
 Washington: *Seattle, Spokane, Tacoma*
 West Virginia: *Bluefield, Charleston, Clarksburg, Huntington, Logan*
 Wisconsin: *Madison, Milwaukee, Oshkosh*
 Wyoming: *Casper, Cheyenne*
 Puerto Rico: *Arecibo, Caguas, Hato Rey, Mayaguez, Ponce, Santurce*
 Canal Zone, Virgin Islands: *Santurce, Puerto Rico*
 American Samoa, Eniwetok Atoll, Guam, Johnston Island, Kwajalein Atoll, Wake Island: *Honolulu, Hawaii*

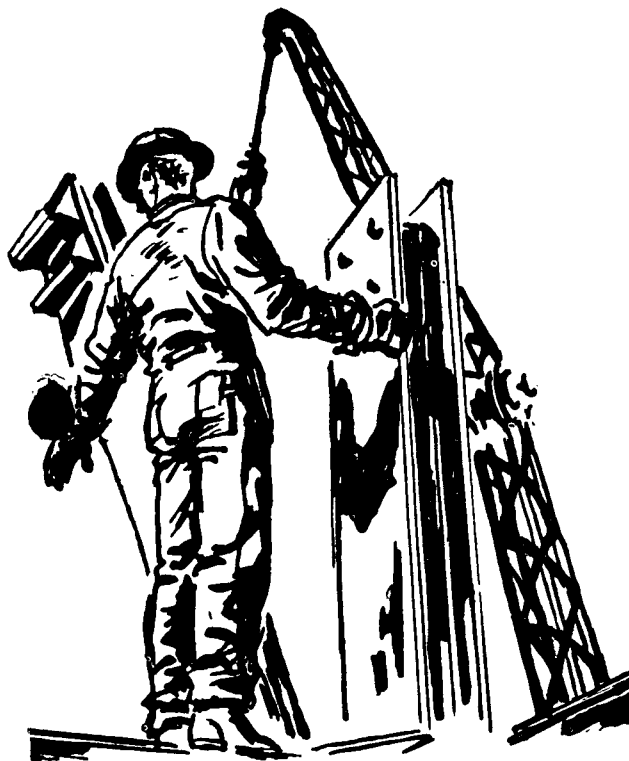


YOUR RIGHTS

As an Employee on a Federal or Federally Financed Construction Job

Under the

- Davis Bacon Act
- Contract Work Hours Standards Act
- Related Acts



U.S. DEPARTMENT OF LABOR
Wage and Hour and Public Contracts Divisions
Washington, D.C.

BUILDING AND CONSTRUCTION WORKERS . . .

If you are a building or construction worker you have probably worked or may work on a Federal or federally-financed job. You may be working on one right now. When you do, you should know the legal rights that you have, how they are protected, and what to do when they are violated. If you do not, you may lose their benefits which could mean a loss of money to you.

This pamphlet generally explains the rights of building and construction workers under the Contract Work Hours Standards Act, the Davis-Bacon, and related acts, on Federal or federally-financed jobs. You do not have the same kind of protection for your wages and overtime on all Federal or federally-financed jobs because there are different laws applying to different kinds of contracts.

You can assist the Federal Government in applying these laws. If you have any questions about your rights or your rate of pay on a Federal or federally-financed construction job, contact the nearest office of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor (see p. 7). Sometimes the Federal Government finds out about violations too late to correct them.

What Are Your Wage Rights?

Prime contractors and subcontractors must pay the hourly wage rates determined by the Secretary of Labor for your classification of work on all Federal contracts over \$2,000, and on most federally-financed jobs. A schedule of these wage rates must be posted by the contractor on the construction site where it may easily be seen by all employees.

Inquiries will be answered by mail, telephone, or personal interview at any office of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor. Offices are listed in the telephone directory under U.S. Department of Labor in the U.S. Government listing. These offices also supply publications free of charge.

Offices listed in italics are staffed by investigation personnel whose duties frequently require them to be away from the office. Telephone messages and requests for information may be left at these offices when regular personnel are not on duty. Personal appointments may be arranged by either telephone or mail.

Alabama: *Anniston, Birmingham, Dothan, Florence, Gadsden, Huntsville, Mobile, Montgomery, Opelika, Selma, Tuscaloosa*
Alaska: *Anchorage*
Arizona: *Phoenix, Tucson*
Arkansas: *El Dorado, Fayetteville, Fort Smith, Hope, Jonesboro, Little Rock, Pine Bluff*
California: *Bakersfield, Fresno, Hollywood, Long Beach, Los Angeles, Modesto, Monterey, Oakland, Redding, Riverside, Sacramento, San Diego, San Francisco, San Jose, San Mateo, Santa Ana, Santa Rosa, Stockton, West Covina, Whittier*
Colorado: *Denver, Pueblo*
Connecticut: *Bridgeport, Hartford, New Haven, New London*
Delaware: *Wilmington*
District of Columbia: *College Park*
Florida: *Clearwater, Cocoa, Fort Lauderdale, Fort Meyers, Jacksonville, Lakeland, Leesburg, Miami, North Miami, Orlando, Pensacola, St. Petersburg, Tampa, West Palm Beach*
Georgia: *Albany, Athens, Atlanta, Augusta, Columbus, Gainesville, Hapeville, Macon, Rome, Savannah, Thomasville, Valdosta*
Hawaii: *Honolulu*
Idaho: *Boise*
Illinois: *Chicago, Springfield*
Indiana: *Evansville, Indianapolis, South Bend*
Iowa: *Burlington, Cedar Rapids, Davenport, Des Moines, Fort Dodge, Mason City, Sioux City, Waterloo*
Kansas: *Pittsburg, Salina, Topeka, Wichita*
Kentucky: *Ashland, Lexington, Louisville, Middlesboro, Pikeville*
Louisiana: *Alexandria, Baton Rouge, Hammond, Houma, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport*
Maine: *Portland*
Maryland: *Baltimore, College Park, Hagerstown, Salisbury*
Massachusetts: *Boston, Lowell, Springfield, Worcester*
Michigan: *Detroit, Grand Rapids, Lansing*
Minnesota: *Minneapolis*
Mississippi: *Biloxi, Columbus, Clarksdale, Greenwood, Hattiesburg, Jackson, Tupelo*
Missouri: *Cape Girardeau, Columbia, Joplin, Kansas City, St. Joseph, St. Louis, Springfield*
Montana: *Great Falls*

- In the same way, journeymen sometimes are listed as lower paid apprentices or "helpers".
- People employed as apprentices sometimes aren't registered in an apprenticeship program as required by the Secretary's regulations.
- In some cases workers are employed at piecework rates and their earnings for the time worked aren't enough to give them the Secretary's hourly rate for their job. Anybody working at piece rates must be guaranteed at least the Secretary's minimum rate for his job classification.
- Sometimes craftsmen are paid a lump sum for certain work instead of wages. A fixed price may be paid to a painter for painting a number of buildings or to an electrician for a job of electrical installation, with the material being furnished by the contractor. No payroll records are kept. In these cases, earnings must be figured on an hourly basis to find out whether these craftsmen have received the minimum wage to which they are entitled.
- In some cases workers work on both Federal and private jobs for the same contractor at hourly rates less than the Secretary's minimum rate. The payroll record may show only the time for the private work, and doesn't show that Federal work was done.
- Failure to pay the minimum rate or overtime pay sometimes is covered up by an incorrect payroll record showing a smaller number of hours worked by the laborer or mechanic than he actually put in on the job. Another way is to enter only weekly earnings without showing the number of hours worked. Both the daily and the weekly hours actually worked must be shown by the employer on his payroll records.

How To Report Violations and Get More Information

You can help by reporting violations to the Wage and Hour and Public Contracts Divisions, Department of Labor, or to the contracting agency, or the project sponsor.

In reporting violations, give as much information as possible. For example: describe the project, tell where it is located, and give its name if it has one. Give the name of the contracting agency, or project sponsor, the name and address of your employer, describe the violations, and where and how they occurred.

- Before you work as a building or construction worker on any of these jobs, the Secretary finds out what wage rates are prevailing in the same locality on construction projects similar to that which is to be constructed under the contract by carpenters, plumbers, ironworkers, electricians, power equipment operators, and all the other different kinds of mechanics and laborers that will be needed on the job. These wage rates are made part of the specifications and the contractors and subcontractors have to agree that their workers won't be paid at lower rates.

What Are Your Overtime Rights?

You are entitled to time and one-half overtime pay for all work after 8 hours a day or 40 hours a week on construction projects contracted out directly by any agency of the U.S. Government. Many contracts which receive financial assistance from the U.S. Government are subject to the same overtime requirements. Usually the Fair Labor Standards Act also applies and requires, among other things, the payment of time and one-half for hours worked in excess of 40 per week.

WHAT CONSTRUCTION JOBS PROVIDE LEGAL BENEFITS FOR EMPLOYEES?

Employees either of the prime contractor or of any subcontractor on the following two types of jobs have legal rights usually including set wage rates:

1. *Federal Job:* Construction, alteration, or repair including painting or decorating a public building or a public work like a post office, a dam, an air base, or other projects under a contract that is made directly with a U.S. Government agency. The contract must be for more than \$2,000.
2. *Federally-financed Job:* Construction of certain projects such as airports, hospitals, schools, apartment houses, college housing, or highway projects on the Interstate System, if a U.S. Government Agency gives or lends money or guarantees the mortgage to help build the project. The contract may be with a State, local, or city agency, or even a private institution.

Contract Provisions Which Protect Your Rights

The construction contract on most Federal or federally-financed jobs must include the following provisions which protect your rights as an employee:

1. *Wage Rates:* You must receive not less than the prevailing rate determined by the Secretary of Labor for your classification of work;
2. *Overtime:* As stated;
3. *Posting:* The Secretary's wage rates must be clearly displayed on the job site so that you can verify your rate of pay;
4. *Pay Days:* You must be paid your wages in full without any unlawful deductions at least once a week;
5. *Deductions or Kickback:* Deductions for board, lodging, and many other things cannot be made without first getting your permission, and such deductions also have to be approved by the Department of Labor. It is unlawful for anyone to get you to give up or "kickback" any wages agreed to be paid you.
6. *Record-Keeping:* While the job is going on, and for 3 years afterwards, the contractor must keep correct payroll records for all laborers and mechanics working on the job site. These records must show the name and address of each worker, his correct classification, his rate of pay, the daily and weekly number of hours worked, the deductions made, and actual wages paid.
7. *Payrolls:* A certified copy of the payroll and the contractor's statement that the payrolls are accurate and that he has not paid less than the wage rates determined by the Secretary of Labor for the project must be submitted to the Federal contracting agency each week.
8. *Inspection of Records:* The contractor must make his payroll records available for inspection to the Wage and Hour and Public Contracts Divisions investigators and the contracting agency, and must allow government agents to interview employees on the job during working hours.
9. *Apprentices:* Apprentices are allowed to work at apprenticeship rates only if they are under a registered apprenticeship program registered with a State Apprenticeship Council or the Department of Labor.

10. *Withholding funds from Contractors:* If a contractor has failed to pay required wages, the contracting agency may withhold or have withheld the full amount of any back wages due, from money that would otherwise be made available for payments to the contractor.
11. *Cancellation of Contracts:* If the contractor or subcontractor fails to live up to any one of these contract provisions, he has broken the contract; and it may be canceled, and the work given to another contractor for completion.
12. *Subcontractor's Obligations:* The contractor must make these contract provisions a part of every contract he makes with any subcontractor.

Violations of Your Rights

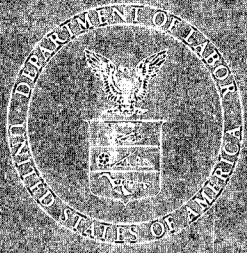
The Wage and Hour and Public Contracts Divisions is responsible for the enforcement of these laws that protect your rights on a Federal or federally-financed construction job.

Violations can occur in many ways. Listed below are a few of the ways that violations can take place. You should know them so that you can discover any violations taking place on your job. This may help you to get any back wages due you.

If you write down each day the hours you work, you will be better able to prove an overtime or even a straight-time claim.

Some Violations:

- The contractor may pay a lower hourly wage rate or less overtime pay than he is supposed to;
- He may not keep proper or correct payroll records, or not report his wage payments to the contracting agency;
- He may not have posted the Secretary of Labor's schedule of wage rates for the project in a prominent place at the job site where all workers can see it and check their proper rates.
- Sometimes the employer's payroll records will list a man as a laborer. He isn't doing a laborer's job, but is doing the work of a plumber, a bricklayer, a carpenter, or an electrician.



notice to employees

WORKING ON
FEDERAL or federally financed CONSTRUCTION PROJECTS

MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week—whichever is greater. There are some exceptions.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you fail to receive the proper pay, contact the nearest Wage and Hour and Public Contracts Divisions Offices listed below or the contracting agency.

MORE INFORMATION

Further information can be obtained from the nearest Regional or District Office of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor located in: Atlanta, Ga.; Birmingham, Ala.; Boston, Mass.; Chicago, Ill.; Cleveland, Ohio; Dallas, Tex.; Detroit, Mich.; Houston, Tex.; Kansas City, Mo.; Los Angeles, Calif.; Oklahoma City, Okla.; Pittsburgh and Philadelphia, Pa.; Nashville, Tenn.; New York, New York; San Francisco, Calif.; Santurce, P.R.; National Office: Washington, D.C.*

Any communication should list name, location, type of project, name of contractor and address, name of Government agency involved, your name and address, and a statement of what you do, what rate you are paid, and what rate you think you should be paid.

* Other offices located in more than 100 principal cities are listed in the telephone directory as the Wage and Hour and Public Contracts Divisions, under the U.S. Department of Labor in the United States Government listing.

TO THE EMPLOYER:

BE SURE TO DISPLAY THE WAGE RATE SCHEDULE
WHERE EMPLOYEES MAY READILY SEE IT.