

BEFORE THE COMMISSIONER
OF THE
BUREAU OF LABOR AND INDUSTRIES

In the matter of rules regulating)
prevailing wage rates on public works) PROPOSED RULES

839-025-0008
List of Planned Public Improvements

(1) As used in this rule the term "Public improvement" has the same meaning as it does in ORS 279A.010(aa).

(2) Each public agency must prepare and file with the commissioner a list of every public improvement known to the agency that the agency plans to fund during the subsequent budget period. The list must be submitted to the Prevailing Wage Rate Unit not less than 30 days prior to the adoption of the agency's budget. If the agency revises its list after the adoption of its budget, the agency must file the revised list with the commissioner at that time.

(3) Copies of the lists of planned public improvements filed with the commissioner by public agencies as required by ORS 279C.305(2) are available to the public upon written request to the Prevailing Wage Rate Unit. The request must contain the following information:

- (a) The name of the public agency;
- (b) The name of any division, section or department of the public agency, if applicable; and
- (c) The approximate date of the budget period for which the list was filed.

(4) The cost of supplying copies requested in section (3) of this rule will be calculated in accordance with OAR 839-030-0010, which sets forth the fees to be charged by the bureau when responding to requests for copies of public records.

Note: Material in [brackets] and *italics* is material that is deleted. Material that is **underlined** and **bold** is material to be added.

(5) To assist public contracting agencies in complying with the provisions of ORS 279C.305 and these rules, the commissioner has prepared two forms, **WH-118** and **WH-119**. The use of these forms by the public contracting agency is optional. However, the statutory requirements of ORS 279C.305(2) are satisfied when these forms are completed and mailed to the Prevailing Wage Rate Unit. The forms should be completed as follows:

(a) The Planned Public Improvement Summary form, WH-118, should be used to summarize all planned projects in the subsequent [*fiscal year*]**budget period**, noting the project information requested on the form;

(b) ORS 279C.305 requires public contracting agencies to show that they are conforming to state policy when they plan to use their own personnel and equipment on projects estimated to exceed \$125,000. The Capital Improvement Project Cost Comparison Estimate form, **WH-119**, should be completed for the purpose of complying with this provision. In developing cost comparisons, unit costs which can be substantiated by the agency's cost accounting system should be used.

Contractor unit prices that reflect bidding data should also be used.

839-025-0015 Public Works Bonds

(1) **Pursuant to ORS 279C.836, except as provided, before starting work on a contract or subcontract for a public works project of \$100,000 or more, a contractor or subcontractor must file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in this state in the amount of \$30,000.**

(2) The Commissioner of the Bureau of Labor and Industries adopts the language in the Statutory Public Works Bond set forth in **Appendix 5**.

Note: Material in [brackets] and *italics* is material that is deleted. Material that is **underlined** and **bold** is material to be added.

[(2)]**(3)** The name of the entity as it appears on the public works bond must be the same as the entity name filed at the Oregon Corporation Division (if applicable).

(a) If the entity is a sole proprietorship, the bond must include the name of the sole proprietor;

(b) If the entity is a partnership, or joint venture, the bond must include the names of all partners or venturers (except limited partners);

(c) If the entity is a limited liability partnership, the bond must be issued in the name of all partners and in the name of the limited liability partnership;

(d) If the entity is a limited partnership, the bond must be issued in the name of all general partners and in the name of the limited partnership and any other business name(s) used. Limited partners do not need to be listed on the bond;

(e) If the entity is a corporation or trust, the bond must be issued showing the corporate or trust name; or

(f) If the entity is a limited liability company, the bond must be issued in the name of the limited liability company.

[(3)]**(4)** If at any time an entity changes or amends its entity name, the Construction Contractors Board must be notified within 30 days of the date of the change.

[(4)]**(5)** If an entity is a sole proprietorship, partnership, limited liability partnership, limited partnership, joint venture, corporation, limited liability company, business trust or any other entity, and changes the entity to one of the other entity types, the new entity must supply a new bond.

[(5)]**(6)** Riders to existing bonds changing the type of entity bonded will be construed as a cancellation of the bond and will not be otherwise accepted.

Note: Material in [brackets] and *italics* is material that is deleted. Material that is **underlined** and **bold** is material to be added.

[(6)]**(7)** The inclusion or exclusion of business name(s) on a bond shall not limit the liability of an entity. Claims against a bonded entity will be processed regardless of business names used by such entity.

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