

SPECIAL FEDERAL REQUIREMENTS APPLICABLE TO LABOR FOR FEDERAL-AID CONTRACTS

Your attention is directed to the Required Contract Provisions (Form PR-1273) and the Special Provisions made a part of the contract(s) recently awarded to your firm, for the above noted project(s) relative to laws, rules, and regulations governing the employment of labor.

An outline of Special Federal Requirements applicable to labor for Federal-Aid Contracts, including a typical example of a payroll and a Statement of Compliance (Form WH-347) follows this introduction. Blank forms of the Statement of Compliance and payroll forms may also be found on the Department of Labor website and are available for downloading. The website address is <http://www.dol.gov/whd/forms/wh347instr.htm>

The contractor and subcontractor must post the Equal Opportunity Posters, Wage Rate Posters (with attached Wage Rate Schedules) and False Statement Posters as provided in the Required Provisions. See Page No. 4 of 4 of the following Outline of Special Federal Requirements for a brief resume of the posting requirements.

As outlined in the following requirements, progress estimates may be withheld in the event all required payrolls and related pay record reports are not submitted promptly to the Project Manager.

Questions concerning labor requirements may be directed to:

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**OUTLINE OF SPECIAL FEDERAL REQUIREMENTS APPLICABLE TO
LABOR FOR FEDERAL-AID CONTRACTS**

The following outline is suggested in connection with preconstruction conferences relative to labor compliance, but if no such conference is held, the State is required to distribute copies of this outline to the contractor and his subcontractors.

Copeland Anti-Kickback Act (40 U.S.C. 276c; 18 U.S.C. 874):

- a. Full wages earned must be paid.
- b. Deductions from wages must be authorized.
- c. Proper records must be kept.
- d. Weekly statements must be submitted by the contractor and all subcontractors.

Prevailing Wages (23 U.S.C. 113):

- a. Wages paid to laborers and mechanics must not be less than the determined hourly wage rates, including fringe benefits, shown in the minimum wage schedules.
- b. Laborers and mechanics must be properly classified and paid according to the work actually performed.
- c. Laborers and mechanics must be paid not less often than once a week.
- d. The minimum wage schedule and supplements thereto must be posted at the project site.

Work Hours Act of 1962 (Public Law 581, 87th Congress, approved August 13, 1962):

- a. Forty hours standard workweek.
- b. One and one-half basic rate of pay exclusive of fringe benefit payments for all hours over 40 hours per week.
- c. Liable to workers for unpaid wages.
- d. Liable to Federal Government for liquidated damages at \$10 per day per man per violation.
- e. Subject to withholdings for unpaid wages and liquidated damages.
- f. Comptroller General authorized to pay workers directly from withholdings.
- g. Appeals to Federal Highway Administrator, Secretary of Labor, and Court of Claims, within 60 days from withholding or final order; and,
- h. Intentional violations a Federal misdemeanor \$1,000 fine and/or six months in prison.

Fair Labor Standards Act (29 U.S.C. 201-219):

- a. Time and one-half pay for overtime in excess of 40 hours worked in a workweek;
- b. Limitations on child labor; and,
- c. Contractors' responsibility to request ruling from U.S. Department of Labor relative to applicability of Act.

False Information Act (18 U.S.C. 1001):

- a. The making or use of false statements is a felony.

Sanctions:

- a. Violations of acts may result in withholding, termination of contract, administrative debarment and/or criminal prosecution.

Classification or Reclassification of Employees:

- a. The minimum wage schedule should be examined with the contractor to ascertain the need for classification or reclassification of laborers and mechanics.
- b. Where classification or reclassification of laborers and mechanics is undertaken, a report thereof must be submitted to the Secretary of Labor for approval. (This is to be accomplished on Standard Form 1444, to be obtained and transmitted through the Project Manager.)

Apprentices:

- a. Apprentices can be employed only under a registered program.
- b. Contractor or subcontractor must submit written evidence of registration (apprenticeship agreement or statement of registration).
- c. Employees classified as apprentices who are not registered must be paid rates shown in minimum wage schedule, on the basis of the classification of work they actually performed.
- d. Proper ratio of apprentices to journeymen must be maintained.

Payrolls and Records:

- a. A certified copy of each weekly payroll must be submitted by the prime contractor and each subcontractor within seven days of the payment date thereof.
- b. Payrolls must be complete.
- c. Delay in submittal of payrolls will result in delay in processing payment estimate.
- d. Prime contractor is responsible for the submittal of payrolls by subcontractors.
- e. All basic records pertaining to the payrolls, including time cards, must be preserved for a period of three years after completion of the contract.

Subcontractors:

- a. Laborers and mechanics employed by the prime contractor and subcontractors are covered by the contract labor provisions, but employees of material suppliers are not. (*)
- b. The prime contractor is responsible for violations of labor provisions by his subcontractors.
- c. The contract clauses stipulated in the Required Provisions must be physically incorporated in all subcontracts.

Convict Labor: Use of convict labor is forbidden.

(*) Certain Materials Suppliers and Nearby Site Operations May Be Subject to Contract Labor Compliance.

It is the responsibility of the prime contractor to ascertain in advance whether or not the work to be performed or materials supplied under the contract is uncovered work relative to compliance with contract labor requirements especially when the sites of such operations are located reasonably nearby and off of the project limits such as used for job headquarters, storage yards, prefabrication or assembly yards, quarries or borrow pits, batch plants, and similar facilities, and when they are set up for and primarily serve only Federal-Aid construction or direct Federal-Aid construction, with only token amounts of sales or services on or from these nearby sites to other than these types of Federal-Aid construction. Normally, the contract labor provisions are not applicable to independent material suppliers who are well established in business at a nearby location furnishing similar materials to others.

1. Form WH-348 Weekly Statement of Compliance

- a. As provided in the "Required Contract Provisions", this form shall be prepared and executed by the contractor or subcontractor or by their authorized agent who supervises payment of wages. It shall be attached to a copy of the applicable weekly payroll and submitted to the Project Engineer not later than the seventh day after the date on which the employees are paid.
- b. If fringe benefit payments are required in addition to the basic hourly wage rates paid to each employee, the appropriate block on the Form WH-348 must be marked according to the section to which the benefit payments are being made. (fillable WH-348 form link below)

WH 348

2. Payroll Requirements

Contractors and subcontractors shall use their own payroll forms. The payroll may be a legible carbon copy, or reproduced from the original by means of a photographic process, also a true transcript may be made from the original form. The following minimum information is required on all payrolls. (See attached typical payroll.)

- a. The heading of the payroll must contain the following minimum information; (1) The project number, (2) Contractor or subcontractor's name and address, (3) The page number of the total pages, and (4) The ending date of the weekly pay period.

- b. The employee's full name, address, and identifying number. The address of an employee need not be repeated (optional) after the first payroll submitted in which his name appears (unless there is a change of address), however, instead the symbol "Rept'd" shall be entered.
- c. The employee's classification and rated capacity of equipment operated shall be the same as those listed in the wage decision schedule in the special provisions. Recognizable title abbreviations may be used.
- d. The payroll shall contain sufficient separate horizontal lines to record each employee's basic and overtime hourly wage rate. (If by machine method, horizontal lines on the form are not required provided computations are extended uniformly.) Both basic and overtime hourly rates shall be shown for convenient review of computations.
- e. If the employee performs work under more than one classification, his name-classification on identify must be entered on separate lines for each classification even though the rates per hour remains unchanged. However, the authorized deductions and total amount earned may be combined. Combined total hours worked in all different classifications in a week shall govern payment of overtime computations.
- f. The payroll shall have sufficient vertical columns with descriptive headings.

3. Additional Classifications and Apprentice Schedule

In the event it is impossible to accomplish the designated work with the employee classifications listed in the contract wage rate decision, an application Standard Form 1444) may be obtained electronically by clicking [here](#) and submitted through the Prime Contractor to mike.ondrak@nebraska.gov for processing. This application must be submitted at the time or before the employee begins work. The same form and rules apply to an apprentice schedule if the apprentice employees are registered under a bona fide apprenticeship program.

4. Posting Labor Regulations

- a. The Equal Employment Opportunity Posters shall be posted in conspicuous places available to employees and applicants for employment.
- b. The Wage Rate Information Poster with attached Contract Wage Rate Decision shall be posted by the contractor at the site of the work in a prominent place where it can easily be seen by the workers.
- c. The False Statements Poster shall be posted in one or more places where it is readily available to all personnel concerned with the project.

The foregoing posting requirements are in accordance with the Required Contract Provisions in the contract. The posting items will be furnished to the contractor by the Project Manager or may be printed from the NDOR website at http://www.transportation.nebraska.gov/letting/FHWA_Jobsite_Posters.htm for posting prior to any work on the project and shall be maintained throughout the construction.