

## CHECKLIST FOR CONTRACTORS MEETING LABOR STANDARDS CONTRACT REQUIREMENTS

### I. INTRODUCTION

The following checklist has been prepared to assist Contractors and Subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction contract progresses. Careful attention to and use of the checklist should result in a minimum number of problems with respect to labor standards.

### II. EXPLANATORY NOTES

The word "employer," as used below, refers to the Prime Contractor, each Subcontractor, or each Lower-tier Subcontractor. Payrolls and other documentary evidence of compliance are required to be sent to the Certified Payroll designee of the Block Grant Recipient for review (all to be submitted through the Prime Contractor). The delivery procedure is as follows:

- A. Each Lower-tier Subcontractor, after careful review, submits required documents to the respective Subcontractor.
- B. Each Subcontractor, after checking his/her own and those of each Lower-tier Subcontractor, submits required documents to the Prime Contractor.
- C. The Prime Contractor, after reviewing all payrolls and other documentation, including his/her own and correcting violations where necessary, submits all to the Certified Payroll designee of the Block Grant Recipient for review.

**ALL EMPLOYERS SHOULD CHECK EACH OF THE FOLLOWING STATEMENTS AS BEING TRUE. IF ANY STATEMENT IS NOT TRUE, THE CONTRACTOR OR HIS/HER REPRESENTATIVE SHOULD CONTACT THE PRIME CONTRACTOR WHO WILL CONTACT THE CITY OF SALEM, FEDERAL PROGRAMS DIVISION, FOR SPECIAL GUIDANCE.**

### III. BEFORE CONSTRUCTION BEGINS EACH EMPLOYER HAS:

- A. Not been debarred or otherwise made ineligible to participate in any Federal or Federally-assisted project (NOTE: This includes any temporary agencies that may be utilized)
- B. Received appropriate contract provisions covering labor standards requirements
- C. Reviewed and understands all labor standards contract provisions
- D. Received the wage decision as part of the contract
- E. Requested through the City of Salem and received the minimum wage for each classification to be worked on the project which was not included on the wage decision by the additional classification process and before allowing any such trade(s) to work on the project
- F. Requested and received certification of any apprentice's certification form the State's Bureau of Apprenticeship and Training (recognized by U.S.BAT) and submitted copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from U.S. BAT, if applicable, must be submitted.

### IV. AT CONSTRUCTION START, THE CONTRACTOR HAS:

- A. Notified the City of Salem of construction start date in writing
- B. Has placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction):
  - 1. Wage Decision
  - 2. Notice to Employees poster (WH 1321)
  - 3. Oregon Safety and Health Protection on the Job (DOL)
- C. Before assigning each project worker to work, has obtained worker's name, best mailing address and



Social Security Number (for payroll purposes)

- D. Has obtained a copy of each apprentice's certificate with the apprentice's registration number, percentage of wage to be paid and his/her year of apprenticeship from the State of Oregon.
  - E. Has informed each worker of:
    - 1. his/her work classification (journeyman or job title) as it will appear on the payroll
    - 2. his/her duties of work the U.S. DOL's requirement on this project that he/she is either a journeyman, apprentice, or laborer
      - a) If journeyman, he/she is to be paid journeyman's minimum wage rate or more.
      - b) If apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on the year of apprenticeship, OR
      - c) If laborer, he/she is to do laborer's work only and cannot use any tool or tools of the trade and not perform any part of the journeyman's work and is to be paid the laborer's minimum rate or more
  - F. Understands the requirements that each laborer or mechanic who performs work on the project in more than one classification within the same work week shall be classified and paid at the highest wage rate applicable to any of the work which he performs unless the following requirements are met:
    - 1. Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification and must be signed by the worker.
    - 2. The payroll shall show the hours worked in each classification and the wage rate paid for each classification.
    - 3. The payroll shall be signed by the worker or a signed copy of the daily time record shall be attached thereto.
  - G. Has informed each worker of:
    - 1. his/her hourly wages (not less than the minimum wage rate for work performed as stated in the Wage Decision)
    - 2. payment of overtime at the rate of time and one half for all work over 40 hours any work week (see Contract Work Hours and Safety Standards Act)
- NOTE: \$10/day liquidated damages will be assessed by DOL for everyday overtime is worked for each employee, but not paid as per CWHSSA.
- 3. fringe benefits, if any (see Wage Decision for any required), paid in cash or into an approved third party trust
  - 4. permissible deductions from his/her pay and/or any deductions voluntarily requested in writing from employee
- H. Has informed each worker that he is subject to being interviewed on the job by a City of Salem, to confirm that his/her employer is complying with all labor requirements
  - I. Has informed each foreman, journeyman and apprentice that the proper journeyman ratio must be observed on the job site at all times when an apprentice is working

## V. DURING CONSTRUCTION:

- A. Each employer:
  - 1. has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, not dismissed any project worker because of race, disability, color, religion, sexual orientation, gender identity, source of income, or national origin
  - 2. has employed all registered apprentices referred to him through normal channels up to the applicable ratio of apprentices to journeyman in each trade used by the employer
  - 3. will maintain basic employment records accessible to inspection by the City of Salem representatives
  - 4. is complying with all health and safety standards
  - 5. has paid all workers weekly
  - 6. has submitted weekly payrolls prepared on the WH-38 form

HUD considers the following project workers exempt from labor requirements and does not require them shown on payrolls:

Project superintendents, project engineers, supervisory foreman (performing less than 20% in a classification), messengers, and clerical workers.



## VI. COMPLETING THE WH-38 PAYROLL FORM:

This form may be used by contractors for reporting payroll as required by ORS 279C.845 on public works projects subject to the Prevailing Wage Rate Law. **Although this form has not been officially approved by the USDOL, it is designed to meet the requirements of the federal Davis-Bacon Act as well.** The form contains a certified statement that is required to be signed by the contractor, certifying the accuracy of the information reported on the payroll, including representations pertaining to the provision of fringe benefits to employees by third parties. Detailed instructions concerning the preparation of the form follow:

Complete the box at the top of the form. Check either the prime contractor or subcontractor box. Be sure to enter the date the contract was first advertised for bid. If you are not sure of this date, contact the Public Contracting Agency.

**Column 1 – NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE:** The employee's full name must be shown on each payroll submitted. The employee's address and the social security number on Davis-Bacon projects must also be shown on the first payroll submitted. The address need not be shown on subsequent payrolls submitted unless the address changes.

**Column 2 – TRADE CLASSIFICATIONS:** List the classification found in the Davis Bacon wage determination included in the bid packet for this job that is most descriptive of the work actually performed by the employee. Give the group number for those worker classifications that include such information. Consult the worker classifications and minimum prevailing wage rate schedule set forth in the contract specifications. Use the appropriate prevailing wage rates in effect at the time the contract was first advertised for bid for information regarding trade classifications, base hourly rates and hourly fringe benefits. Indicate which workers are apprentices, if any and give their current percentage, trade classification and group number when applicable. If an employee works in more than one worker classification, use the highest rate for all hours worked, or use separate line entries to show hours worked, rate of pay and fringe benefit for each classification.

**Column 3 – DAY AND DATE:** Enter the day of the week (M, T, W, Th, F, S and Sn) in the top row of boxes and the corresponding date below.

**HOURS WORKED EACH DAY:** Enter the total number of "straight time" hours worked in the row marked "S". For Davis Bacon projects, hours worked in excess of 40 hours in any work week should be entered as overtime ("OT") hours worked.

**Column 4 – TOTAL HOURS:** Enter separately the total number of straight time and overtime hours worked by each listed employee and classification during this pay period. The total number of straight time hours worked should be entered in the lower box ("S"); the total number of overtime hours worked should be entered in the top box ("OT").

**Column 5 – BASE HOURLY RATE OF PAY:** Enter the base hourly rate and the overtime hourly rate (if any) paid the employee in the appropriate straight time and overtime boxes. (Payment of not less than one and one half times the base or regular rate of pay, not including fringe benefits, is required to be paid in overtime pursuant to ORS 279C.540).

**Column 6 – HOURLY FRINGE BENEFIT AMOUNT PAID AS WAGES TO THE EMPLOYEE:** Enter any additional wages paid directly to the employee in lieu of fringe benefits. (It is not necessary to pay time and a half for overtime work on those wages that are paid in lieu of fringe benefits.) Include documentation with the first payroll submitted.

**Column 7 – GROSS AMOUNT EARNED:** Enter gross amount earned on this project. If part of the employees' weekly wages were earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Davis Bacon project then the gross amount earned during the week on all projects, thus \$63.00/\$120.00.

**Column 8 – ITEMIZED DEDUCTIONS, FICA, FED, STATE, ETC.:** Enter a list of itemized deductions withheld from the wages of each employee for only those hours reported on this payroll/certified statement for this project. All deductions must be in accordance with the provisions of ORS 652.610 (and as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. Stat. 967, 76 Stat. 357; 40 U.S.C 276c) on projects subject to Davis-Bacon Act.)

**Column 9 – NET WAGES PAID FOR WEEK:** Enter the total amount of net wages actually paid to the employee after subtracting the total deductions reported in Column 8 from the gross amount earned shown in Column 7.



**Column 10 – HOURLY FRINGE BENEFITS PAID TO BENEFITS PARTY, PLAN, FUND OR PROGRAM:** Enter the hourly amount of fringe benefits paid to each individually approved party, plan, fund or program for each employee. List these amounts separately on the lines provided. Any contractor who is making payments to approved parties, plans, funds or programs on amounts less than the required hourly fringe benefit is obligated to pay the difference directly to the employee as wages in lieu of fringe benefits and to show that amount in Column 6 of this form.

**Column 11 – NAME OF BENEFIT PARTY, PLAN, FUND OR PROGRAM:** Enter the name of the party, plan, fund or program that corresponds to the amount paid as an hourly fringe benefit in Column 10. Submit documentation with first payroll.

### **CALCULATION CHECK**

In order to determine whether the wages and fringe benefits paid are sufficient to meet prevailing wage rate requirements, the following check may be performed:

1. For each trade classification listed in column 2, compute the sum of:
  - a) the Base Hourly Rate of Pay (Column 5),
  - b) the Hourly Fringe Benefit Amount Paid as Wages to Employee (Column 6)
  - c) and the Hourly Fringe Benefits Paid to Benefit Party, Plan, Fund or Program (Column 10).
2. This sum must equal or exceed the total of the Base Hourly Rate (including zone pay and special wage differentials, if any) and the Fringe Benefit Amount as they are listed for the corresponding trade classifications in the appropriate issue of the Bureau of Labor and Industries publications Prevailing Wage Rates for Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts Subject to BOTH the State PWR and Federal Davis-Bacon Act.

### **VII. WEEKLY PAYROLL REVIEW**

- A. Each employer has promptly reviewed the weekly payroll for compliance with all labor standards requirements (using this checklist) and has made any necessary corrections
- B. Each Lower-tier Subcontractor submits weekly payrolls or accounted for work not performed (as outlined in Section VIII, #1) to the respective Subcontractor within 3 calendar days from the last date of the work week
- C. Each Subcontractor has submitted their weekly payrolls or accounted for work not performed (as outlined in Section VIII, #1) to the Prime Contractor within 5 calendar days from the last date of the work week
- D. Each Subcontractor has reviewed any payrolls submitted by any Lower-tier Subcontractor for compliance with labor standards requirements
- E. Each Subcontractor has requested any necessary corrections and submitted them to the Prime Contractor within 5 calendar days from the last date of the work week
- F. The Prime Contractor has received a weekly payroll or accounting for work not performed (as outlined in Section VIII, #1) from each Subcontractor or Lower-tier Subcontractor, has reviewed and requested necessary corrections and has submitted all payrolls, including their own, to the Block Grant Recipient within 7 work days of the last date of the respective work week

### **VIII. FREQUENTLY ASKED QUESTIONS**

1. If employer's workers perform no physical work on the project during the work week, he/she has submitted a No Work Performed statement for that period or has stated on the following payroll that during the preceding period no work was performed.
2. Payroll of employer's final work week on the project is marked "final"
3. If the applicable classification is not included in the Wage Decision, the Prime Contractor should request a rate and classification from the City of Salem, Federal Programs Division through the Additional Classification process
4. If worker is an apprentice, their State BAT or DOL registration documentation is attached to the first payroll in which the employee appears.
5. If a copy of the apprentice's registration certificate has not been submitted with payrolls, apprentice must be paid journeyman's rate.
6. If worker has performed more than one class of work during the work week, such as carpenter and laborer,



the division of work will be shown on separate lines of the payroll

7. Average pay of two classifications is not accepted.
8. The work classification of "helper" is not accepted by HUD, unless included in the Wage Decision issued by the Secretary of Labor for the project. Any employee listed as "helper" in absence of such classification in the Wage Decision must be paid the journeyman's rate for hours he uses tools of the trade.
9. Overtime rate of pay is not less than 1 1/2 times the worker's straight hourly rate of pay plus any fringe benefits (see Wage Decision)
10. Piece work must be stated at an hourly rate (the gross pay for the project work week divided by the total number of hours worked on the project during the work week)
11. Each employer has completed all blank spaces with an understanding of the penalties for falsification
12. Each employer has signed in ink the payroll in the block marked signature and has stated his/her title. The person signing the payroll is either listed on the Subcontract Agreement as the owner or an officer of the company, OR has been designated to sign company payrolls on Payroll Authorization form (Form Group 5): [http://www.cityofsalem.net/Departments/UrbanDevelopment/FederalPrograms/Federal%20Program%20Forms/D B-10\\_PayrollAuth2008EN.pdf](http://www.cityofsalem.net/Departments/UrbanDevelopment/FederalPrograms/Federal%20Program%20Forms/D B-10_PayrollAuth2008EN.pdf)

## IX. AFTER PROJECT COMPLETION

- A. Each employer will keep all weekly payrolls on the project for 3 years after the Prime Contractor's completion date.
- B. The employer will submit a Section 3 Summary Report (Form Group 7): [http://www.cityofsalem.net/Departments/UrbanDevelopment/FederalPrograms/Federal%20Program%20Forms/D B\\_19\\_Sec3\\_Report.pdf](http://www.cityofsalem.net/Departments/UrbanDevelopment/FederalPrograms/Federal%20Program%20Forms/D B_19_Sec3_Report.pdf) [http://www.cityofsalem.net/export/departments/urbandev/housing/forms/section\\_3\\_summary\\_rpt\\_60002.pdf](http://www.cityofsalem.net/export/departments/urbandev/housing/forms/section_3_summary_rpt_60002.pdf) ) and an Equal Opportunity Employment Report (Form Group 7): [http://www.cityofsalem.net/Departments/UrbanDevelopment/FederalPrograms/Federal%20Program%20Forms/D B-18\\_ReportingEOE2516EN.pdf](http://www.cityofsalem.net/Departments/UrbanDevelopment/FederalPrograms/Federal%20Program%20Forms/D B-18_ReportingEOE2516EN.pdf)) to The City of Salem, Federal Programs Division prior to the release of final funds.

