

Certified Payroll Checklist for Project Managers and Contractors

Every contractor and subcontractor on a Prevailing Wage covered project must file certified payrolls with the contracting agency.

- Certified payrolls are prepared and submitted to the Project Manager:
 - Weekly for Federally funded/Davis-Bacon projects.
 - Monthly by the 5th business day of each month for state-funded/BOLI projects.
- If the Prime Contractor does not submit certified payrolls as required, the Project Manager must withhold 25% of the monthly progress estimate for the Prime Contractor in addition to any other required retainage.
 - Once certified payrolls are submitted, the Project Manager is to pay amounts withheld within 14 days.
- Sub-contractors' certified payrolls are prepared and submitted to the Prime Contractor for review and subsequent forwarding to the Project Manager.
 - Weekly for Federally funded/Davis-Bacon projects.
 - Monthly by the 5th of each month for state-funded/BOLI projects.
- If a First-Tier Subcontractor does not submit certified payrolls as required, the Prime Contractor must withhold 25% of the monthly progress estimate for the Subcontractor in addition to any other required retainage.
 - Once certified payrolls are submitted, the Prime Contractor is to pay amounts withheld within 14 days.

FHWA 1273 V. 2.c.; 29 CFR 5.5(a)(3)(ii)(A); ORS 279.354; OAR 839-025-0010, SB 477

- Quarterly Labor Compliance Audits will be conducted by the Office of Civil Rights Field Coordinator.
 - Upon completion of each successful audit, labor will be considered as accepted up to the date of the audit and payrolls will not again be reviewed unless a formal wage complaint or investigation later arises.
- Upon completion of the project, and after all labor audits have been conducted, the Project Manager will prepare a Labor Compliance Certification and labor will be accepted by the Office of Civil Rights Field Coordinator.
 - Payrolls will not again be audited unless a formal wage complaint or investigation has arisen.

The Oregon Department of Transportation Construction Manual, Labor Compliance 19-5(B).

Required Elements of a Certified Payroll

(Every payroll must contain all required elements unless noted otherwise)

- 1. Name, Address, and Social Security Number of Employee**
 - Full name on each payroll
 - Address on the first payroll the employee works and subsequent payrolls if changes occur
 - Social Security Number on the first payroll the employee works on federally funded/Davis Bacon related projects with bid opening dates prior to January 18, 2009, or
 - The last 4 digits of the social security number on the first payroll the employee works on federally funded/Davis Bacon related projects with bid opening dates on or after January 18, 2009

FHWA-1273 V.2. b.; 29 CFR 5.5(a)(3)(i); ORS 279.354(1); OAR 839-025-0010 (1) & (2).
- 2. Trade Classification and applicable group number on every payroll. Apprentices are to be identified by the classification apprenticed to and percentage level.**

FHWA-1273 V.2. b.; 29 CFR 5.5(a)(3)(i); ORS 279.354(1); OAR 839-025-0010 (1) and (2).
- 3. Day of the week and Corresponding Date on every payroll.**

FHWA-1273 V.2. b.; 29 CFR 5.5(a)(3)(i); ORS 279.354(1); OAR 839-025-0010 (1) and (2).
- 4. Number of straight time hours worked on this project only - each day on every payroll.**

FHWA 1273 V.2b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.
- 5. Number of overtime hours worked on this project only - each day on every payroll.**

FHWA 1273 V.2b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.
- 6. Total straight time hours worked during the week on this project only - on every payroll.**

FHWA 1273 V.2b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.
- 7. Total overtime hours worked during the week on this project only - on every payroll.**

FHWA 1273 V.2b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.
- 8. Base Hourly Rate of Pay on every payroll.**
 - Base Hourly Rate = base wage + zone pay + fringe benefits paid in cash.
 - Base Hourly Rate paid must equal or exceed the combined amount stipulated in the applicable wage determination

FHWA 1273 V.2b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.

- 9. Overtime Hourly Rate of Pay on every payroll.**

 - Overtime Hourly Rate = (1.5 times base rate, which includes zone pay) + fringe benefits paid in cash on federally-funded/Davis-Bacon projects.
FHWA 1273 V.2.b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.

- 10. Hourly Fringe Benefit Amount paid as wages to employee on every payroll.**

 - This is to be reported separately on State-funded/BOLI projects only. It is included in the Base Hourly Rate of Pay on federally-funded/Davis-Bacon projects.
FHWA 1273 V.2.b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.

- 11. Gross Amount Earned during the week on this project.**

 - In addition, federally-funded/Davis-Bacon projects require a separate amount be recorded for total gross wages earned on all other PWR and non-PWR projects worked during the week.
FHWA 1273 V.2.b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.

- 12. Deductions (FICA, Fed, State, Etc) should be reflective of the specific project.**

 - Any Deduction designated as "Other" will have an explanation at least on the first relevant payroll.
FHWA 1273 IV 1.a., V 2.d.; 29 CFR 3.5, 3.6, 5.5(a)(3)(ii)(B)(2); ORS 279, 651.

- 13. Net Wages equal Gross Amount Earned minus deductions.**

FHWA 1273 V.2.b; 29 CFR 5.5(a)(3)(i); OAR 839-025-0010.

- 14. Hourly Amount of Fringe Benefits paid to a benefit plan, fund, or program.**

BOLI Prevailing Wage Rate Laws Certified Payroll, Responsibilities of the Contractor, Certified Payroll Form.

- 15. Name of Benefit Plan, Fund, or Program**

 - The name of the Benefit Plan. Fund, or program, where fringe benefits are contributed must be listed on the first payroll the employee works and subsequent payrolls when changes occur. (State funded/BOLI related projects only)

BOLI Prevailing Wage Rate Laws Certified Payroll, Responsibilities of the Contractor, Certified Payroll Form.

- 16. Certification Page/Statement**

 - Must be attached to every payroll
 - Must be signed
 - Note: If project contains federal funds, and the BOLI Payroll/Certified Statement Form WH-38 (Rev 12/06) is used, two signatures are required.

- Must correlate to the project's funding source. (Federal Payroll Form WH-347 for Federally-funded/Davis-Bacon projects or BOLI Payroll Form WH-38 for State-funded/BOLI projects).
- BOLI Payroll/Certified Statement Form WH-38 (Rev 12/06 or later) was specifically designed to meet all requirements of both Oregon prevailing wage law and the federal Davis-Bacon Act and is recommended.
- Contractors are not required to use a specific form; however the contractor must provide all the required information and the certification statement must be signed and submitted with the contractor's payroll.
 - On all projects first published for bid on or after January 1, 2006, a statement identically duplicating the verbiage on the BOLI Payroll/Certified Statement Form WH-38 (Rev 12/06) is recommended.
 - On Davis-Bacon projects first published for bid prior to January 1, 2006, a statement identically duplicating the verbiage on the Federal Certification statement form is acceptable.
 - On state projects first published for bid prior to January 1, 2006, BOLI will accept the Federal Certification Page/Statement if the following words are added above the signature: "I have read this certified statement, know the contents thereof and it is true to my knowledge."

FHWA 1273 IV 1. c.; 29 CFR 3.3 (b); 29 CFR 5.5 (a)(3)(ii)(B); ORS 279C.845); OAR 839 025-0010; BOLI Prevailing Wage Rate Laws, Responsibilities of the Contractor, Certified Payroll, Certified Payroll Form.

General Information & Common Problems

□ 1. Prevailing Wage Rate Comparison:

- For all projects first published for bid on or after January 1, 2006 where federal funds are included, the contractor shall compare the wage rate and fringe benefits of each classification of employee, of both the Oregon and the Davis-Bacon prevailing wages and pay the higher of the two.
- See the "Davis-Bacon/BOLI Prevailing Wage Comparison Process" at the end of this section for detailed instructions on how to conduct the comparison.

Oregon Standards Specifications For Construction 00170.65(b); ORS 279C.838; OAR 839-025-0035(1); BOLI Prevailing Wage Rate Laws, Contractor Responsibilities, Payment of Prevailing Wages

□ 2. Overtime:

- All federally-funded/Davis-Bacon and state-funded/BOLI projects are subject to the State of Oregon overtime regulations. Only two exceptions exist:
 - 1) Employees covered under a Collective Bargaining Agreement that contains overtime requirements.
 - The Collective Bargaining Agreement provisions shall apply and a copy of the agreement must accompany the payrolls.
 - 2) Employees who work for Indian-owned business on Indian Reservations.
 - Overtime is paid for all hours worked over 40 in a work week.

Oregon Standards Specifications For Construction 00170.65(b); FHWA 1273 IV. 1.c.; ORS 279.316; ORS 279C.540; BOLI Prevailing Wage Rate Laws, What Projects Are Covered by PWR Laws?, No Joint Jurisdiction with Federal Government.

- Overtime is calculated at (1 1/2 times base hourly rate) + fringe benefits paid in cash. (Base Hourly Rate = base wage + applicable zone pay.)
- Overtime is paid for all weekends, Sundays, and designated holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day).
 - BOLI defines weekend as: 12:01 a.m. Saturday through 11:59 p.m. Sunday. *ORS 279C.540, OAR 839-025-0050 and OAR 839-025-0004 (12).*
- Overtime is due for all hours over 8 in a work day when working a 5-8 schedule
- Overtime is due for all hours over 10 in a work day when working a 4-10 schedule
- Overtime is due for all hours over 40 in a work week.
- When an employee working a 4-10 schedule works a 5th week day, that employee's work schedule for that entire week reverts to a 5-8 schedule for that employee only. Accordingly any hours worked by that employee over 8 in a work day during that week are due overtime wages. This may happen occasionally but repeated occurrences could lead to a permanent change to a 5-8 schedule.

- If an employee earns more than one base rate of pay for the day/week, then the daily/weekly overtime owed, in addition to the regular straight time wages, is based on the highest hourly base rate earned or a weighted average of all hourly base rates earned.

Oregon Standard Specifications for Construction, Section 00170.65; ORS 279C.540; OAR 839-025-0050(2)(a); OAR 839-025-0004(2), OAR 839-025-0034; BOLI's Prevailing Wage Rate Laws, Responsibilities of the Contractor, Overtime. BOLI Prevailing Wage Rate Laws Appendix D

□ **3. Work Schedules:**

- BOLI defines work schedule to be one of three choices:

- 5-8 hour days Monday through Friday
- 4-10 hour days Monday through Thursday
- 4-10 hour days Tuesday through Friday

ORS 279C.540); OAR 839-025-0050 and OAR 839-025-0034; BOLI Prevailing Wage Rate Laws, Responsibilities of the Contractor, Overtime.

- *BOLI requires that schedule changes be intended as permanent (or seasonally permanent). One work schedule change per construction season is acceptable. OAR 839-025-0034; BOLI Prevailing Wage Rate Laws, Appendix F, Establishing a Work Schedule, (4).*

- BOLI allows an individual to have an independent schedule (this requires appropriate written notification of schedule change and posting of schedules). *ORS 279C.540); OAR 839-025-0050 and OAR 839-025-0034; BOLI's Prevailing Wage Rate Laws, Responsibilities of the Contractor, Overtime.*

□ **4. Zone Pay**

- Zone pay is calculated by a specific location, or locations, on the project site as determined by the Project Manager.
- Zone is measured along existing roadways from the center of the Project to the nearest base point referenced in the wage determination for the work classification, except:

- If the wage for a work classification is based on work locales that may involve several counties in each locale (such as for electricians), and the Project includes work in more than one work locale, determine the correct zone rate for each work locale. Determine the proper zone by measuring from the nearest base point to the center of the Project located in that work locale. The Contractor must pay the proper wage and zone pay for the location that the work is done.
- If a project has a no-work zone of one (1) mile or more, and the Project involves multiple zone areas, determine the proper zone for each work area based on the distance from the center of each portion of the Project to the

each work area.

- For these situations, the Contractor may elect to pay either:
 - The highest of all the zone rates for all Work on the Project, or
 - The appropriate zone rate for Work performed in each zone

The Oregon Department of Transportation Construction Manual 19-5(C)2.

- **5. Correlate the Worker Classification and Day on the Work Site with the Employee Interview (Project Manager Only)**
29 CFR 5.6 (a)(3) and 29 CFR 5.5 (a)(1)(i); ORS 279C.840; OAR 839-025-0035; The Oregon Department of Transportation Construction Manual 19-5(B)
- **6. Is the appropriate apprentice to journey level ratio being adhered to and are the appropriate apprentice wages being paid?**
FHWA-1273 IV 4.; 29 5.2 (n)(1); 29 5.5 (a)(4); 29 CFR (a) (4)(i); OAR 839-025-0035(8) and (9); OAR 839-025-0060; OAR 839-025-0065; BOLI Prevailing Wage Rate Laws, Responsibilities of the Contractor, Apprentices and Trainees.
- **7. Owner/Operator Classification/Designation only applies to Trucking Contractors.**
Oregon Standard Specifications for Construction, 00170.65(e); USDOL Davis-Bacon Resource Book, DBRA Compliance Principles, Page 7; BOLI Prevailing Wage Rate Laws, Responsibilities of the Contractor, Owners, Managers, and Supervisors.
- **8. Owners of non-trucking companies, managers, supervisors, and members of survey crews working more than 20% of a 40 hour work week performing direct labor or working in a trade must be paid at least the prevailing wage rates and benefits for the classification and group number of the trade in which they are working and must be included on the certified payroll.**
29 CFR 5.2 (m); USDOL Davis-Bacon Resource Book, DBRA Compliance Principles, Page 3; OAR 839-025-0035(2), (3)and (5); BOLI Prevailing Wage Rate Laws, Responsibilities of the Contractor, Owners, Managers, and Supervisors.

Davis-Bacon/BOLI Prevailing Wage Comparison Process

1. Wage Determinations: Select the Oregon Bureau of Labor and Industries (BOLI) wage determination and the Davis-Bacon (D/B) wage determination applicable to the project.
 - a. Determine the date the project was first advertised, or the RFP date in the case of a Design-Build Project. This date will determine the applicable Oregon Bureau of Labor and Industries (BOLI) wage determination for the project. These wage determinations are found in BOLI's publications titled "*Prevailing Wage Rates for Public Works Contracts in Oregon*". This publication is published semi-annually with effective dates of January 1st and July 1st plus two amendments published semi-annually with effective dates of April 1st and October 1st. These publications can be found on BOLI's website:
http://www.oregon.gov/BOLI/WHD/PWR/pwr_state.shtml.
 1. For projects whose date first advertised or RFP date falls between January 1 and March 31, select the publication "Prevailing Wage Rates for Public Works Contracts in Oregon" publication with an effective date of January 1 of the applicable year.
 2. For projects whose date first advertised or RFP date falls between April 1 and June 30, select the publication "Prevailing Wage Rates for Public Works Contracts in Oregon" publication with an effective date of January 1 of the applicable year and its April 1st amendment.
 3. For projects whose date first advertised or RFP date falls between July 1 and September 30, select the publication "Prevailing Wage Rates for Public Works Contracts in Oregon" publication with an effective date of July 1 of the applicable year.
 4. For projects whose date first advertised or RFP date falls between October 1 and December 31, select the publication "Prevailing Wage Rates for Public Works Contracts in Oregon" publication with an effective date of July 1 of the applicable year and its October 1st amendment.
 - a) Recommend print out this publication.
 - b. Determine the bid opening date of the project, or the RFP date in the case of a Design-Build Project. This date will determine the applicable Davis-Bacon (D/B) wage determination for the project. D/B wage determinations and corresponding modifications are published periodically throughout the year. These wage determinations can be found on ODOT's website:
<http://www.oregon.gov/ODOT/HWY/SPECS/wages.shtml>
 1. Select Davis Bacon (2009 Projects) or Davis Bacon (Earlier Projects) as appropriate based on the year of the bid opening date.
 2. Find the bid opening date and select the corresponding Davis Bacon Wage Determination from the column titled HIGHWAY.
 - a) Recommend print out this publication.

2. Zone Pay: Ask the Project Manager for the location on the project site that will be used for the purposes of calculating zone pay. This determination is at the discretion of the Project Manager who has three options.
 - a. The geographical center of the project. (This is the most common and recommended option.)
 - b. If the project has multiple work sites separated by non-work areas (for example two individual bridges with no work in between) zone pay can be calculated based on the geographical center of each individual work site.
 - c. If the project has multiple work sites separated by non-work sites zone pay can be calculated based on the geographical center of the work site where a clear majority of the work is to be performed.

3. Project Wage Entitlements: Perform a comparison of the Davis Bacon and BOLI total prevailing wage entitlement (base pay + zone pay + fringe benefits) due each classification, and if applicable, each group number. In the case of a project which spans multiple counties, multiple comparisons may be required.
 - a. Using the applicable Davis-Bacon wage determination, determine the correct federal wage rate, zone pay, and fringe benefits associated with the location(s) where the project construction is taking place.
 - 1) For each classification, and applicable group number, select the applicable base rate, zone pay, and fringe benefits.
 - b. Using the applicable BOLI wage determination, determine the correct state wage rate, zone pay, and fringe benefits associated with the location where the project construction is taking place.
 - 1) Find the classification and applicable group number, in the region pages associated with the county(ies) where the project construction is taking place.
 - a) If there is an hourly rate of pay and fringe benefits listed next to the classification and applicable group number, use these.
 - b) If directed to "See Appendix," go to the appendix and select the applicable base rate, zone pay, and fringe benefits.

4. Worksheet: Record the higher of the two total prevailing wage entitlements for each classification and group within each classification on the Davis-Bacon/BOLI Prevailing Wage Rate Worksheet found on the ODOT website
http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/docs/forms/labor/PWR_Spreadsheet_Template.xls.