

Information for Preconstruction Conferences

Labor Regulations for All Federal Aid Projects

Copeland Anti- Kickback Act (As amended 18 U.S.C. 874 &40 U.S.C.276)

- A. Full Wages earned must be paid
- B. B. Deduction from wages must be authorized.
- C. C. Proper records must be kept.
- D. D. Weekly statements must be submitted by the contractor and all subcontractors.

Prevailing Wage Rates

- 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 schedule made a part of the contract.
- 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 so as to be available to all employees.
- e) All employees must be paid at least the prevailing wage rate as specified in the determination of the United States Department of Labor or the New Jersey Department of Labor, whichever is higher.
- f) Overtime pay requirements as specified by these determinations must also be met.
- g) The labor regulations must have been made a part of this contract.
- h) If the prime contractor fails to comply with these provisions, the Resident Engineer is empowered to cause the termination of the contractor or subcontractor's right to proceed with the work
- i) All subcontractors must be alerted to all of the labor provisions made part of the contract and must comply with all the regulations.

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

- a) Eight hours standard work day. Forty hours standard work week. Though standard, not exclusive. Many classifications have the choice for 4 to 10 hour days.
- b) One and one- half basic rate of pay exclusive of fringe benefit payments for all hours over eight hours per day or 40 hours per week.
- c) Contractors are liable to workers for unpaid wages.
- d) Contractors are liable to the Federal Government for liquidate damages at \$10.00 per day per man per violation.
- e) Subject to withholdings for unpaid wages and liquidated damages.
- f) Comptroller General authorized to pay workers from withholdings.
- g) Appeals to Federal Highway Administrator, Secretary of Labor, and Court of Claims, within 60 days from withholding or final order.
- 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) Minimum wage of \$3.35 per hour. This rate does not apply to any laborers or mechanics employed on the project.
- b) Time and one- half pay for overtime in excess of 40 hours worked in a work week. Stipulations for double time rates under certain circumstances.
- c) Limitations on Child labor.
- d) It is the Contractor's responsibility to request ruling from U.S. Department of Labor relative to applicability of Act.

False Information Act (18 U.S.C 10001)

- 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

The minimum wage schedule should be examined with the contractor to ascertain the need for classification or reclassification of laborers and mechanics.

Where classification or reclassification of laborers and mechanics is undertaken, a report must be submitted to the Secretary of Labor for approval.

Apprentice (required Contract Provisions, PR 1273, Sec. IV, 5 & 6)

Apprentices can be employed only under a registered program. Proper ratio of apprentices to journeymen must be maintained.

Contractors or subcontractors must submit written evidence of registration (apprenticeship agreement or statement of registration).

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 perform.

Apprentices and Trainees (Program of Department of Transportation)

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with the Federal-aid highway construction programs shall be paid the straight time hourly wage rates established by the particular program.

Payrolls and Records

- a) A copy of each weekly payroll must be submitted by the prime contractor and each subcontractor within seven days of the payment date thereof. The required Statement of Compliance Form CR_347 must accompany each payroll.
- b) Payrolls must be complete and must contain the following:
 - 1) The employees' full name and individual identifying number (e.g last four digits of employee's social security number) on each weekly payroll submitted.
 - 2) Specified work classification or classifications performed by each employee during the pay period.
 - 3) The employee's hourly wage rate and, where applicable, his overtime hourly wage rate.
 - 4) The daily and weekly hours worked in each classification, including actual overtime hours work (not adjusted)
 - 5) The itemized deductions made and net wages paid.
 - 6) Contract identification number including route and section.
- c) Delay in submittal of payroll will result in delay in processing payment estimates.
- 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 project.

Equal Employment Opportunity

All of the Equal Employment Opportunity provisions contained in Article 1.6.3 of the Supplementary Specifications shall be strictly adhered to by the contractor of any subcontractor performing work on the project.

The Specific Equal Employment Opportunity Responsibilities contained in this contract under "Federal Highway Administration Order Interim 7-2(1) Attachment, shall be strictly adhered to by the contractor or any subcontractor performing work on this project.

Noncompliance by the contractor with the requirements of the Affirmative Action Program for Equal Employment Opportunity specified in Article 1.6.3 may be cause for delay or withholding monthly and final payments of estimates pending corrective and appropriate measures by the contractor to satisfaction of the Department.

Every employer, employment agency, labor organization and joint labor management committee controlling an apprenticeship or other training program as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employee, applicants for employment, members, and trainees are customarily posted the following notice, Known as "Equal Employment Opportunity is the Law, Discrimination is Prohibited," as printed by GPO: 1970 0-387-525. Copies may be obtained from the District Engineer.

Convict Labor

Use of Convict labor is forbidden.

Final Certificate

Upon completion of the contract, the contractor shall submit form DC- 123 "Contractor's Final Certificate of Compliance" in duplicate, to the Resident Engineer.

Information Pertinent to Truckers

The prime contractor is warned that is his responsibility to insure himself that the proper rates are paid all employees. He is urged to require payrolls to be filed by all organizations and in the case of owner- operators or equipment rental companies who provided operators for their equipment, an affidavit should be obtained by the prime showing the cost of the equipment and the rate paid by the operator.

Any trucker performing a function which is an integral part of the Contractor's work obligation must be paid the prevailing wage rate for his class of work regardless of the number of trucks used. Truckers excluded from payment of prevailing wage rates are only those employed by a bona fide material supplier and are only delivering material to the project site.

A bona fide material supplier is an organization that has facilities that are open to public sales and are selling 50 percent or more to the public and whose establishment has not been set up exclusively for the project.

Pay and Payrolls for Owner- Operators of Truck

Payroll information for each driver employee of truck owner- operators, regardless of the number of trucks owned by one owner- operator, must be shown as for any other laborer or mechanic, on the certified payroll returns of the owner- operator employer, or on the certified payroll returns of the subcontractor or contractor for whom the trucking work is performed.

- f) Payrolls shall contain only applicable data in relation to the hours actually worked on this project.
- g) All payrolls shall be accompanied by a Statement of Compliance Form CR-347-2
- h) When space on the payroll form is limited, supplemental data may be submitted as an attachment to the payroll form.
- i) The combining of payroll deductions on the payroll form without proper identification is not permitted unless supplemental data specifying the purpose and amount of each deduction is attached to the payroll when submitted.
- j) Some contractors desire to use appropriate codes to replace the classification names on submitted payrolls. This procedure is acceptable provided the contractor submits a copy of the classification code with each submitted payroll.
- k) Employers may use any appropriate method to indicate the payment of the required fringe benefits, either to approved plans, funds, or programs, or in cash payments to their employees, so long as payment can be readily ascertained from an examination of the submitted payroll and accompanying Statement of Compliance Form (CR-347-2.)
- l) Prime and Subcontractors must submit Form CR-347-2 - Statement of Compliance, covering the week of the payroll. The upper half of the form should indicate permissible deductions such as FICA, Withholding Taxes, etc. The lower portion should itemize unusual deductions or exceptional fringe benefits.
- 1) The box under 4(A) should be checked if the fringe benefits are paid directly to approved plans, funds or programs
- 2) The box under 4(B) should be checked if fringe benefits are paid in cash.
- 3) The box under 4(C) should be checked to indicate any exceptions to either 4(A) or 4(B)

Subcontractors

Laborers and mechanics employed by the prime contractor and subcontractors are covered by the contract labor provisions, but employees of bonafided material suppliers are not covered by the regulations.

The prime contractor is responsible for violations of labor provisions by his subcontractor.

The contract classes required by PPM-40-4 must be physically incorporated in all subcontracts. Stipulations contained in Form PR 1273 must be included in each subcontract.

The Standard Specification states, "The Contractor shall not sell, transfer, assign, hypothecate or otherwise dispose of the contract to any other party." Subject to the above provisions and to the consent of the Commissioner, work may be sublet"

These statements mean the Resident Engineer is not to permit any work to be performed on the project by any organization which has not been approved by the Commissioner. The Bureau of Construction Services is presently performing this service of Approval of Requests to Sublet.

The term subcontractor includes third tier contractors.

Employment Interviews

The Resident Engineer, in order to certify compliance with the prey provisions, must of necessity interview the employees of the prime contractor and subcontractor working the project. Records must be kept of all interviews which are made. These records should indicate the date of the interview, the response of the worker including his name, the type of work he is performing or his labor classification, and the rate of pay.