

# 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 5<sup>th</sup> 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 5<sup>th</sup> 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*

- Upon completion of the project, final payrolls will be submitted to the Office of Civil Rights with a Labor Compliance Certification signed by the Project Manager or Local Agency Project Manager for final acceptance.
  - Payrolls will only be re-opened for review by OCR for valid reasons (wage complaint or other evidence of possible problems).

*The Oregon Department of Transportation Construction Manual, Labor Compliance, Certified Payrolls 2. Review of Certified Payrolls by the Project Manager.*

## 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. (Not required for State funded/BOLI projects)  
*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 and 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) 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.

*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 5<sup>th</sup> week day, that employee's work schedule for that entire week reverts to a 5-8 schedule. 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. 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, Labor Compliance, Certified Payrolls 2. Review of Certified Payrolls by the Project Manager.*

**5. 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.*

**6. 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.*

- **7. Owners of non-trucking companies, managers, and supervisors** 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.*