

Prevailing Wage Contractor Responsibilities

ORC Chapter 4115: Wages And Hours On Public Works (Prevailing Wage)

General Information

Ohio's prevailing wage laws apply to all public improvements financed in whole or in part by public funds when the total overall project cost is fairly estimated to be more than the thresholds set in place by the State of Ohio for either new construction or for reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting.

- Thresholds are to be adjusted biennially by the Director of the Ohio Department of Commerce
- Biennial adjustments to threshold levels are made according to the Price Deflator for Construction Index, United States Department of Commerce, Bureau of the Census, but may not increase or decrease more than 3% for any year

Penalties for violation

Violators are to be assessed the wages owed, plus a penalty of 100% of the wages owed.

Intentional Violations

If an intentional violation is determined to have occurred, the contractor is prohibited from contracting directly or indirectly with any public authority for the construction of a public improvement. Intentional violation means "a willful, knowing, or deliberate disregard for any provision" of the prevailing wage law and includes but is not limited to the following actions:

- intentional failure to submit payroll reports as required, or knowingly submitting false or erroneous reports
- intentional misclassification of employees for the purpose of reducing wages
- intentional misclassification of employees as independent contractors or as apprentices
- intentional failure to pay the prevailing wage
- intentional failure to comply with the allowable ratio of apprentices to skilled workers as required by the regulations established by Ohio Department of Commerce, Wage and Hour Bureau
- intentionally employing an officer, of a contractor or subcontractor, that is known to be prohibited from contracting, directly or indirectly, with a public authority

Responsibilities

A. Pay the prevailing rate of wages as shown in the wage rate schedules issued by the Ohio Department of Commerce, Wage and Hour Bureau, for the classification of work being performed.

1. Wage rate schedules include all modifications, corrections, escalation's, or reductions to wage rates issued for the project.
2. Overtime must be paid at time and one-half the employee's base hourly rate. Fringe benefits are paid at straight time rate for all hours including overtime.
3. Prevailing wages must be paid in full without any deduction for food, lodging, transportation, use of tools, etc. unless, the employee has voluntarily consented to these deductions in writing. The public authority and the Chief of DOC Wage and Hour Bureau must approve these deductions as fair and reasonable. Consent and approval must be obtained before starting the project.

B. Use of Apprentices and Helpers cannot exceed the ratios permitted in the wage rate schedules.

1. Apprentices must be registered with the Ohio State Apprenticeship Council.
2. Contractors must provide the Prevailing Wage Coordinator a copy of the Apprenticeship Agreement for each apprentice on the project.

C. Keep full and accurate payroll records available for inspection by any authorized representative of the State of Ohio Wage and Hour Bureau or the contracting public authority, including the Prevailing Wage Coordinator. Records should include but are not limited to:

1. Time cards, time sheets, daily work records, etc.
2. Payroll ledger\journals and canceled checks\check register.
3. Fringe benefit records must include program name, address, account number, and canceled checks.
4. Records made in connection with the public improvement must not be removed from the State for one year following the completion of the project.
5. Out-of-State Corporations must submit to the Ohio Secretary of State the full name and address of their Statutory Agent in Ohio.

D. Prevailing Wage Rate Schedule must be posted on the job site where it is accessible to all employees.

E. Prior to submitting the initial payroll report, supply the Prevailing Wage Coordinator with your project dates to schedule reporting of your payrolls.

F. Supply the Prevailing Wage Coordinator a list of all subcontractors including the name, address, and telephone number for each.

1. Contractors are responsible for their subcontractors' compliance with requirements of Chapter 4115 of the Ohio Revised Code.

G. Before employees start work on the project, supply them with written notification of their job classification, prevailing wage rate, fringe benefit amounts, and the name of the Prevailing Wage Coordinator for the project.

H. Supply all subcontractors with the Prevailing Wage Rates and changes.

I. Submit certified payrolls within two (2) weeks after the initial pay period. Payrolls must include the following information:

1. Employees' names, addresses, and social security numbers.
 - Corporate officers\owners\partners and any salaried personnel that do physical work on the project are considered employees.

All rate and reporting requirements are applicable to these individuals.

2. Employees' work classification.

- Be specific about the laborers and/or operators
- For all apprentices, show level\year and percent of journeyman's rate

3. Hours worked on the project for each employee.

- The number of hours worked in each day and the total number of hours worked each week.

4. Hourly rate for each employee.

- The minimum rate paid must be the wage rate for the appropriate classification. The Department's Wage Rate Schedule sets this rate.
- All overtime worked is to be paid at time and one-half for all hours worked more than forty (40) per week.

5. Where fringes are paid into a bona fide plan instead of cash, list each benefit and amount per hour paid to program for each employee.

- When the amount contributed to the fringe benefit plan and the total number of hours worked by the employee on all projects for the year are documented, the hourly amount is calculated by dividing the total contribution of the employer by the total number of hours worked by the employee.
- When the amount contributed to the fringe benefit is documented but not the total hours worked, the hourly amount is calculated by dividing the total yearly contribution by 2080.

6. Gross amount earned on all projects during the pay period.

7. Total deductions from employee's wages

8. Net amount paid.

J. The reports shall be certified by the contractor, subcontractor, or duly appointed agent stating that the payroll is correct and complete; and that the wage rates shown are not less than those required by the O.R.C. 4115.

K. Send a Final Affidavit to the Prevailing Wage Coordinator upon the completion of the project.

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