

City of Duluth and Davis-Bacon

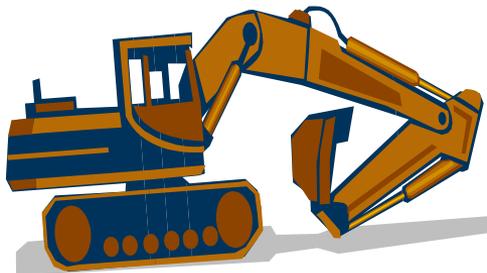
- “ Brief History
- “ City-State/Federal-HUD funding
- “ Which Wage Decision Do I use?
- “ Prevailing Wages - How They're Applied
- “ CPR & What's Required
- “ Overtime
- “ Trucking Requirements & Reports
- “ On-Site Monthly Interviews
- “ Apprentices
- “ Back-Pay Procedures
- “ HUD Letters and Specifics
- “ Statements of Compliance

Revised 5/2012

History

□ Davis- Bacon Act

- Enacted 1930, amended 1935 & 1964
- Federal construction contracts >\$2,000
- Applies to ALL laborers and mechanics, including owners
- Requires payment of prevailing wages on a WEEKLY basis



□ HUD Davis-Bacon Related Acts

- Many laws that piggy-back on Davis-Bacon
- CDBG: Housing and Community Development Act of 1974
- Contract Work Hours & Safety Standards Act (CWHSSA)
 - Enacted 1962
 - Overtime for all work >40 hrs/week on the project site; applies only to hours worked on the HUD funded project
 - OT paid at 1.5x on the higher of the prevailing wage or what the employee is being paid
 - Does not allow payment of a higher RT rate with OT calculated on the lower prevailing wage rate
 - Applies to prime contracts >\$100,000
 - Liquidated damages may be assessed for violations (\$10/day violation)

History

□ Copeland (Anti-Kickback)

- Enacted 1934
- Regulates deductions from wages
- Prohibits “kick-backs” of pay
- Requires submission of certified weekly payrolls

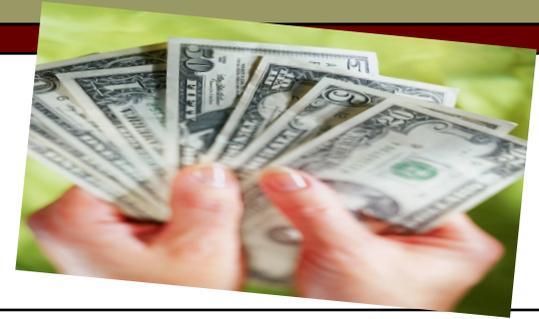


□ City of Duluth “Mini-Davis Bacon”

- Ordinance 8940 effective 6/8/89
- Applies solely to ALL City funded construction projects >\$2,000
- Allows a base workweek of five 8-hours day OR four 10-hours days
- Daily overtime paid on hours worked in excess of the daily base
- Incorporates Minnesota Statutes and MnDOT requirements
- Adheres to HUD stipulations on projects so funded



Funding - City of Duluth



- Permits a base workweek of five 8-hr days OR four 10-hour days
- Daily overtime applied on hours worked in excess of the daily base
- **Cross-withholding applies**
 - State of Minnesota Rule 5200 and corresponding State Statutes
 - MnDOT spec 1906 Process for Withholding Contract Monies and Default & Termination of a Contract (11/5/04)
 - MnDOT Statement of Compliance form 21658 (08-08)
 - Federal General Decision Prevailing Wage Rates OR those determined by the City--see City of Duluth Mini Davis-Bacon, 3-b prevailing wage rate
 - Prevailing wages locked-in at the advertising date
 - HUD Section 10, form 4010 (6/2009)
 - CWHSSA
 - U S Dept of Labor EEO and Affirmative Action Regulations
 - Davis-Bacon 29 CFR Part 5



Funding – State of MN (with or without federal funding)

- Governed by MnDOT
- Overtime paid on hours in excess of eight per day | all hours over 40 per week
- State of Minnesota Rule 5200 and corresponding State Statutes
- MnDOT Month-End Trucking Reports
- MnDOT Truck Rental Rates
- MnDOT spec 1906 Process for Withholding Contract Monies and Default & Termination of a Contract (11/5/04)
- Requires MnDOT Statement of Compliance form 21658 (12-10)
- State funding follows State of Minnesota Prevailing Wages
 - Typically lists two rates for each classification with two effective dates; should any contract continue to and past the second effective date, that rate and fringe benefit will be in effect through the remainder of the project
- May use both State of Minnesota Prevailing Wages and the Federal General Decision from which the higher of the two rates applies
- Prevailing wages are subject to change until **one day** before the bid opening date
- Cross-withholding applies
- Davis-Bacon 29 CFR 5



Funding –

H U D (Housing & Urban Development)



- ❑ Overtime paid at over 40 hours per week; applies only to hours worked on the project
- ❑ Overtime based on 1.5 times the minimum base rate as stated in the wage decision or what the employee is being paid, whichever is higher
- ❑ Does not allow payment of a higher RT rate with OT calculated on the prevailing wage
- ❑ HUD form 4010 (see Supplementary General Conditions Part II 4/15/06, p 10)
- ❑ Statement of Compliance on reverse side of form WH-347
- ❑ Davis-Bacon and Related Acts (DBRA)
- ❑ Federal General Decision prevailing wage rates
- ❑ Specific forms for on-site interviews and interview letters
- ❑ City of Duluth requires MNDOT Statement of Compliance form 21658 (12-10) completed in full
- ❑ Cross-withholding applies
 - Lock-in rule:
 - ❑ Prevailing wages published <10 calendar days before the formal bid opening may be disregarded if insufficient time to notify bidder and report is made to contract file
 - ❑ Prevailing wages locked-in at **formal** bid opening provided contract is **awarded** within 90 days
 - ❑ Prevailing wages must be updated if contract award is >90 days after **formal** bid opening
 - ❑ Should construction commence before the formal bid opening or contract award, the prevailing wages are locked-in at the start of construction.



Funding – Federal Government only



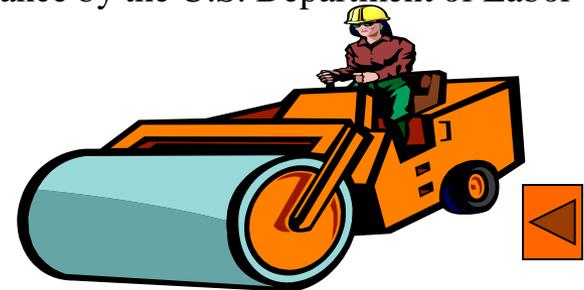
- Overtime is paid at over 40 hours per week
- Federal U S DOL General Decision prevailing wage rates apply
- Overtime based on 1.5 times the minimum base rate as stated in the wage decision or what the employee is being paid, whichever is higher
- Does not allow payment of a higher RT rate with OT calculated on the prevailing wage
- Davis-Bacon applies to contracts for construction
- WH-348 Statement of Compliance required—on reverse side of the WH-347
- Cross-withholding applies
- City of Duluth requires Mn/DOT Statement of Compliance form 21658 (12-10) completed in full
- Wage Decisions:
 - Received 10 days or more before opening of bids must be incorporated
 - Received less than 10 days before opening of bids to be incorporated if reasonable time to notify bidders
 - Contract not awarded within 90 days after bid opening: any new modification must be incorporated unless the City requests and obtains an extension of the 90-day period by US DOL
 - Wage Decision expires between bid opening and contract award,: new wage decision must be incorporated, if any; unless an extension is granted by US DOL



Laborers & Mechanics

- ❑ Includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial
- ❑ Applies to apprentices, watchmen, guards, surveyors
- ❑ Persons employed in bona fide executive, administrative, or professional capacity (as defined in part 541 [29CFR541]) are not deemed to be laborers or mechanics
- ❑ Exempt: timekeepers, inspectors, architects, engineers
- ❑ Working foremen who devote more than 20% of their time during a workweek to mechanic or laborer duties (and who do not meet the criteria of part 541) are laborers and mechanics for the time so spent
- ❑ **EMPLOYEE:** every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship
- ❑ **APPRENTICE:**
 - A person employed and individually registered in a bona fide apprenticeship program
 - Trainees must be registered under a program approved in advance by the U.S. Department of Labor and the federal Bureau of Apprenticeship and Training
 - Helper classifications are not accepted under Davis-Bacon

Rev 1/06



Which Wage Decision Do I Use and How Do I Find It?

The city of Duluth's Davis-Bacon ordinance requires use of the U S Department of Labor's wage decisions unless otherwise specified.

- The State of Minnesota wage decision for St. Louis County is used for projects funded in part or in whole with state or federal monies.

From the U S Department of Labor, **the wage decision used is dependent upon the work being done on the project.** Examples follow on subsequent pages.

- **At times, more than one wage decision is necessary for a project.**
- For example: the majority of work being performed falls under the HIGHWAY (which means roadway) wage decision.
 - In addition, between 20-25% of the work is underground for utility work.
 - The HEAVY wage decision must also be included with that project.

The following pages relate to the determination of a wage decision for a specific project.

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Wage and Hour Division
WASHINGTON, D.C. 20210



MAR 17 1978

ALL AGENCY MEMORANDUM NO. 130

TO: ALL GOVERNMENT CONTRACTING AGENCIES AND THE
DISTRICT OF COLUMBIA

FROM: XAVIER M. VELA
ADMINISTRATOR

SUBJECT: Application Of The Standard Of Comparison "Projects Of A
Character Similar" Under The Davis-Bacon And Related Acts

The purpose of this memorandum is to set forth present policies of the Wage and Hour Division with regard to the determination of "projects of a character similar to the contract work" for wage determination purposes. The guidelines contained in the memorandum are to be used by the contracting agencies in selecting the proper schedule(s) of wage rates from the Federal Register and in instructing contractors regarding the application of multiple schedules. This memorandum supersedes All Agency Memorandum No. 68 (July 19, 1966).

The Davis-Bacon and related Acts require the Secretary of Labor to determine the prevailing wage rates for corresponding classes of laborers and mechanics on projects in the area which are of a "character similar" to the proposed contract work to which the determination will be applied. The Department's Wage Appeals Board in a decision specifically relating to high-rise apartment buildings (WAB Case No. stated:76-11, dated January 27, 1977) stated:

The test of whether a project is of a character similar to another project refers to the nature of the project itself in a construction sense, not to whether union or nonunion wages are paid or whether union or nonunion workers are employed. Since the 1935 amendments to the Davis-Bacon Act, the statutory focus has always been on the character of the project itself rather than on who was employed on the project or how much he or she was being paid.

Again, in a decision relating to a water treatment plant project (WAB Case No. 77-20, dated September 30, 1977), the Board stated: "When it is clear from the nature of the project itself in a construction sense that it is to be categorized as either building, heavy, or highway construction it is not necessary to resort to an area practice survey to determine the appropriate categorization of the project."

Generally construction projects are classified as either building, heavy, highway or residential. 1/ Below are descriptions of these classifications with an illustrative listing of the kinds of projects that are generally included within the classification. Contracting agencies should utilize these descriptions and illustrations in carrying out their responsibilities, to insure a uniform and consistent administration of the Davis-Bacon and related prevailing wage statutes. The advertised and contract specifications should identify as specifically as possible the segments of work to which the schedules will apply. Note, however, that the descriptions and illustrations are guides. Contracting agencies should seek a determination from the Department of Labor on close questions or when the appropriate classification is in dispute. In making this determination where a project does not readily fall within any category, the Department of Labor may consider wages being paid on analogous projects as an indication of the proper category. As stated by the Wage Appeals Board in WAB Case No. 77-23, dated December 30, 1977: "Wages, however, are only one indication. It is also necessary to look at other characteristics of the project, including the construction techniques, the material and equipment being used on the project, the type of skills called for on the project work and other similar factors which would indicate the proper category of construction."

BUILDING CONSTRUCTION

Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction of such structures, the installation of utilities and the installation of equipment, both above and below grade

1/ Generally, for wage determination purposes, a project consists of all construction necessary to complete a facility regardless of the number of contracts involved so long as all contracts awarded are closely related in purpose, time and place. For example, demolition or site work preparatory to building construction is considered a part of the building project for wage determination purposes. Where a project, such as a water and sewage treatment plant, includes construction items that in themselves would be otherwise classified, a multiple classification may be justified if such construction items are a substantial part of the project. Further, however, a separate classification would not apply if such construction items are merely incidental to the total project to which they are closely related in function. For example, water or sewer line work which is a part of a building project would not generally be separately classified. Where construction is "incidental" in function, 20 percent of project cost is used as a rough guide for determining when construction is also "incidental" in amount to the overall project.

level, as well as incidental grading, utilities and paving. Additionally, such structures need not be "habitable" to be building construction. The installation of heavy machinery and/or equipment does not generally change the project's character as a building.

Examples **BUILDING**

Alterations and additions to buildings
Apartment buildings (5 stories and above)
Arenas (enclosed)
Auditoriums
Automobile parking garages
Banks and financial buildings
Barracks
Churches
City halls
Civic centers
Commercial buildings
Court houses
Detention facilities
Dormitories
Farm buildings
Fire stations
Hospitals
Hotels
Industrial buildings
Institutional buildings
Libraries
Mausoleums
Motels
Museums
Nursing and convalescent facilities
Office buildings
Out-patient clinics
Passenger and freight terminal buildings
Police stations
Post offices Power plants
Prefabricated buildings
Remodeling buildings
Renovating buildings
Repairing buildings
Restaurants
Schools
Service stations
Shopping centers
Stores
Subway stations
Theaters
Warehouses Water and sewage treatment plants (buildings only)

Dredging projects
Electrification projects (outdoor)
Flood control projects
Industrial incinerators (other than building)
Irrigation projects
Jetties
Kilns
Land drainage (not incidental to other construction)
Land leveling (not incidental to other construction)
Land reclamation
Levees
Locks, waterways
Oil refineries (other than buildings)
Pipe lines
Ponds
Pumping stations (prefabricated drop-in units - not buildings)
Railroad construction
Reservoirs
Revetments
Sewage collection and disposal lines
Sewers (sanitary, storm, etc)
Shoreline maintenance
Ski tows
Storage tanks
Swimming pools (outdoor)
Subways (other than buildings)
Tipples
Tunnels
Unsheltered piers and wharves
Viaducts (other than highway)
Water mains
Water-way construction
Water supply lines (not incidental to building)
Water and sewage treatment plants (other than buildings)
Wells

HIGHWAY CONSTRUCTION

Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

Examples

Alleys
Base courses
Bituminous treatments
Bridle paths
Concrete pavement
Curbs
Excavation and embankment (for road construction)

Page 6

Fencing (highway)
Grade crossing elimination (overpasses or underpasses)
Guard rails on highway
Highway signs
Highway bridges (overpasses; underpasses; grade separation;
Medians
Parking lots
Parkways
Resurfacing streets and highways
Roadbeds
Roadways
Runways
Shoulders
Stabilizing courses
Storm sewers incidental to road construction
Street Paving
Surface courses
Taxiways
Trails

In applying these guidelines contracting agencies are reminded that they have the authority only in the first instance to designate the appropriate wage schedule(s) from the Federal Register, and to determine the application of multiple schedules issued by the Wage and Hour Division in project wage determinations. Any questions regarding the application of the guidelines set forth in this memorandum to a particular project or any disputes regarding the application of the wage schedules are to be referred to the Wage and Hour Division for resolution, and the instructions of the Wage and Hour Division are to be observed in all instances. Furthermore, where multiple schedules are issued by the Wage and Hour Division, they must be utilized in the contract specifications unless the agency requests and receives a change in the wage determination from the Wage and Hour Division. To ensure that appropriate schedules are issued, contracting agencies are advised to provide the Wage and Hour Division in their requests for wage determinations with a sufficiently specific description of the project to be able to determine its character.

U S Department of Labor Wage Decisions

<http://www.dol.gov/>

Wage Determination Online Homepage - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Wage Determination Online Homepage

www.wdol.gov

Google

Wage Determinations OnLine.gov

Providing public access to federal wage determinations and related information.

WDOL.gov is part of the Integrated Acquisition Environment, one of the E-Government initiatives in the President's Management Agenda. It is a collaborative effort of the Office of Management and Budget, Department of Labor, Department of Defense, General Services Administration, Department of Energy, and Department of Commerce.

HOME | **FAQs** | **User Guide** | **Help**

Service Contract Act	Davis-Bacon Act	Related Information
<ul style="list-style-type: none">Selecting SCA WDSe98Archived WDSWDS due to be revisedPACT (Price Adjustment Calculation Tool) NEW!	<ul style="list-style-type: none">Selecting DBA WDSDetermining a DBA WDWDS due to be revisedRollover Crosswalk NEW!	<ul style="list-style-type: none">Agency Labor AdvisorsLibraryDOL Wage and Hour Website

Welcome to the Wage Determinations OnLine Program!

This website provides a single location for federal contracting officers to use in obtaining appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDS) for each official contract action. The website is available to the general public as well. Guidance in selecting WDS from this website is provided in the WDOL.gov User's Guide.

Alternatively, the WDOL.gov Program also provides contracting officers direct access to the Department of Labor's (DOL's) "e98" website to submit a request for SCA WDS for use on official contract actions. In some instances, the WDOL.gov Program will not contain the appropriate SCA WD, and contracting officers will be directed to use DOL's e98 website in order to obtain the required SCA WD. DOL will provide the contracting officer with an SCA WD through the e98 system.

Questions pertaining to the application of contract labor standards or the selection of appropriate WDS for specific contract actions should be referred to the contracting officer or to the designated agency labor advisors. Questions pertaining to this website may be referred to the WDOL.gov Webmaster.

The WDOL.gov Program and the User's Guide does not relieve the contracting officer or other program user of the requirement to carefully review the contract or solicitation, federal acquisition regulations, and/or DOL regulations related to these actions.

Where the contracting officer selects a SCA or DBA WD using the WDOL.gov Program and DOL later mines, whether before or after contract award, that the appropriate SCA or DBA WD was not

News and Updates...

NEW! The Department of Labor's Wage and Hour Division (WHD) is scheduled to host six Prevailing Wage Conferences fiscal year 2012. The conferences will address the administration and enforcement of the Davis Bacon Act and McNamara-O'Hara Service Contract Act. All conferences are free and open to the public. Conference attendees will learn valuable information dealing with the process of obtaining wage determinations and adding classifications, in addition to learning information on the process for appealing wage rates, coverage issues and determining compliance. The scheduled locations are:

- El Paso, Texas May 8 - 10, 2012 ([click here for Flyer](#))
- Los Angeles, California TBD
- Philadelphia, Pennsylvania TBD
- Chicago, Illinois TBD
- Miami, Florida TBD
- Seattle, Washington TBD

You may register to attend these conferences and be placed on a waiting list by calling or emailing the Department of Labor's Wage and Hour Division's Government Contracts Line. Please email your name, title, organization, email address, telephone number and the location of the conference you wish to attend to <mailto:whdpwc@dol.gov>.

1:52 PM

MN1 Highway MN120105
MN41 Building MN120041
MN105 Heavy MN120001

Enter **code** here and click on: Search

Wage Determinations Online - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Wage Determinations Online

www.wdol.gov/dba.aspx#0

- Archived WDs
- WDs due to be revised
- DOL Wage and Hour Website

CAUTION: Users should note that the only WDs applicable to a particular solicitation or contract are those that have been incorporated by the contracting officer in that contract action.

Selecting DBA Wage Decisions

Select DBA WD by number:

(Enter WD number in the following format: two letter abbreviation for the state and the number of the WD. For example, VA3, NOT VA030003 or MD150 NOT MD030150.)

OR

Browse by [state/territory](#)

OR

By Selection criteria beginning with:

State:

County:

Construction Type: ([Types of Construction Under DBA](#))

WD Number:

[Back](#)

View the latest [modifications and additions](#) to the Davis-Bacon Database.

View the [modifications or additions](#) to Davis-Bacon Wage Determinations due to be issued and published on WDOL.gov.

[View Archived Wage Determinations](#)

[Help](#) | [Privacy & Security Statement](#) | [Quality and Disclaimers](#) | [Contact Webmaster](#)

1:54 PM

Scroll down to see the latest revision.
Click on: **Printer Friendly Version**

The screenshot shows the Wage Determinations Online (WDO) website in a Mozilla Firefox browser. The page has a navigation bar with 'HOME', 'FAQs', 'User Guide', and 'Help'. Below this is a table with three columns: 'Service Contract Act', 'Davis-Bacon Act', and 'Related Information'. The 'Davis-Bacon Act' column contains a link for 'Selecting DBA WDs'. A red arrow points from the text above to this link. Below the table is a caution box. The main content area is titled 'Selecting DBA Wage Decisions' and contains instructions to scroll down. A scrollable box displays details for a wage decision: 'General Decision Number: MN120001 01/06/2012 MN1', 'Superseded General Decision Number: MN20100007', 'State: Minnesota', 'Construction Type: Highway', and 'Counties: Carlton, Cook, Itasca, Koochiching, Lake, Pine and St Louis Counties in Minnesota.' Below this box, a green arrow points from the text above to the 'Printer Friendly Version' link. At the bottom of the scrollable box are buttons for 'Sign Up for Alert Service', 'Find Another WD', and 'Exit'. A 'Back' link is located below the scrollable box. The Windows taskbar at the bottom shows the time as 2:00 PM.

Service Contract Act	Davis-Bacon Act	Related Information
<ul style="list-style-type: none">Selecting SCA WDse98Archived WDsWDs due to be revised	<ul style="list-style-type: none">Selecting DBA WDsArchived WDsWDs due to be revised	<ul style="list-style-type: none">Agency Labor AdvisorsLibraryDOL Wage and Hour Website

CAUTION: Users should note that the only WDs applicable to a particular solicitation or contract are those that have been incorporated by the contracting officer in that contract action.

Selecting DBA Wage Decisions

The Wage Determination you have requested is below.

Please scroll down to review the WD carefully to ensure that it is appropriate for the specific contract action.

General Decision Number: MN120001 01/06/2012 MN1

Superseded General Decision Number: MN20100007

State: Minnesota

Construction Type: Highway

Counties: Carlton, Cook, Itasca, Koochiching, Lake, Pine and St Louis Counties in Minnesota.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/06/2012

[Printer Friendly Version](#)

[Back](#)

File | Save Page As | PROJECT DELIVERY | Prevailing Wages

General Decision Number: MN120001 01/06/2012 MN1
Superseded General Decision Number: MN20100007
State: Minnesota
Construction Type: Highway
Counties: Carlton, Cook, Itasca, Koochiching, Lake, Pine and St Louis Counties in Minnesota.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number: 0 Publication Date: 01/06/2012

* SUMN2010-001 10/31/2011

	Rates	Fringes
BRICKLAYER.....	\$ 28.58	20.66
CARPENTER.....	\$ 29.72	17.15
CEMENT MASON/CONCRETE FINISHER...	\$ 31.83	16.25
ELECTRICIAN		
Electrician.....	\$ 30.51	22.49
Ground Person.....	\$ 23.33	14.83
Lineman.....	\$ 34.82	14.82
Wiring System Installer.....	\$ 22.46	10.61
Wiring System Technician....	\$ 32.09	12.39
IRONWORKER.....	\$ 29.66	19.90
LABORER		
Blaster.....	\$ 29.14	15.08
Common or General.....	\$ 26.14	15.08
Flag Person.....	\$ 26.14	15.08
Landscape.....	\$ 17.19	11.59
Skilled.....	\$ 26.14	15.08
Underground & Open Ditch (8 ft below grade).....	\$ 26.84	15.08
MILLWRIGHT.....	\$ 30.12	14.65
OPERATOR:		
GROUP 2.....	\$ 31.82	16.60
GROUP 3.....	\$ 31.27	16.60
GROUP 4.....	\$ 29.07	16.60

Move old schedule into:

j:\Project Delivery\Prevailing Wages\OLD WAGE SCHEDULES for REF ONLY

State of Minnesota – Highway Heavy Prevailing Wage Decision

<http://workplace.doli.state.mn.us/prevwage/highway.php>

Click on: **Region 1**

Highway & Heavy Prevailing Wage - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Highway & Heavy Prevailing Wage

workplace.doli.state.mn.us/prevwage/highway.php

State Of MN Prev Wages

MINNESOTA DEPARTMENT OF LABOR & INDUSTRY

About DLI Construction Trades and Licensing OSHA Research Wage and Hour Workers' Compensation

Highway and heavy prevailing wage

Instructions: Click within any area to view prevailing wage information.

Map of Minnesota showing 10 regions:

- Region 1: St. Louis, Lake, Cook
- Region 2: Marshall, Roseau, Lake of the Woods, Beltrami, Koochiching
- Region 3: Cass, Crow Wing, Aitkin, Carlton
- Region 4: Wilkin, Otter Tail, Grant, Douglas, Todd, Morrison, Mille Lacs, Kanabec, Pine
- Region 5: Benton, Stearns, Sherburne, Sibley, Anoka, Chisago
- Region 6: Winona, Fillmore, Houston
- Region 7: Blue Earth, Wabasha
- Region 8: Lincoln, Lyon, Redwood, Nicollet, LeSueur, Rice, Goodhue
- Region 9: Wright, Hennepin, Scott, Dakota
- Region 10: Rock, Nobles, Jackson, Martin

http://workplace.doli.state.mn.us/prevwage/highway_data.php

2:12 PM

St Louis County 69

Effective Date

Highway & Heavy Prevailing Wage - Mozilla Firefox
File Edit View History Bookmarks Tools Help
Highway & Heavy Prevailing Wage
workspace.doli.state.mn.us/prevwage/highway_data.php?region=01
State Of MN Prev Wages

MINNESOTA DEPARTMENT OF LABOR & INDUSTRY
About DLI Construction Trades and Licensing OSHA Research Wage and Hour Workers' Compensation

Select another region | Commercial | Residential | Print version | pdf version

MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY PREVAILING WAGES FOR STATE FUNDED CONSTRUCTION PROJECTS

THIS NOTICE MUST BE POSTED ON THE JOBSITE IN A CONSPICUOUS PLACE

Construction Type: Highway and Heavy

Region Number: 01

Counties within region:

- CARLTON-09
- COOK-16
- ITASCA-31
- KOOCHICHING-36
- LAKE-38
- PINE-58
- ST. LOUIS-69

Effective: 2011-10-31

This project is covered by Minnesota prevailing wage statutes. Wage rates listed below are the minimum hourly rates to be paid on this project.

All hours worked in excess of eight (8) hours per day or forty (40) hours per week shall be paid at a rate of one and one half (1 1/2) times the basic hourly rate.

File | Save Page As | PROJECT DELIVERY | Prevailing Wages

Move old schedule into:

j:\Project Delivery\Prevailing Wages\OLD WAGE SCHEDULES for REF ONLY

State of Minnesota Truck Rental Rates

<http://www.doli.state.mn.us/LS/PrevWageTR1.asp>

The screenshot shows a web browser window displaying the Minnesota Department of Labor & Industry website. The page title is "Region 1 minimum truck rental rates -- prevailing wage, Minnesota Department of Labor and Industry - Mozilla Firefox". The address bar shows the URL "www.dli.mn.gov/ls/PrevWageTR1.asp". The website header includes the Minnesota Department of Labor & Industry logo and a search bar. A navigation menu lists various topics: About DLI, Construction Trades and Licensing, OSHA, Research, Wage and Hour, and Workers' Compensation. The main content area is titled "Region 1 -- minimum truck rental rates" and contains a paragraph explaining the operating costs for different truck types. Below this is a table of "Minimum hourly truck rental rates" for Region 1 as of April 4, 2011. The table lists rates for Tractor trailer, 5 or more axle, 4 axle, 3 axle, and Tractor only. A footer section provides contact information for the Minnesota Department of Labor and Industry.

Region 1 -- minimum truck rental rates

The operating costs were determined by survey on a statewide basis. The operating cost for "five or more axle units, straight body trucks" is determined to be \$49.10 an hour. The operating cost for "four axle units, straight body trucks" is determined to be \$45.49 an hour. The operating cost for "three axle units" is determined to be \$37.35 an hour. The operating cost for "tractor only" is determined to be \$46.02 an hour. The operating cost for "tractor trailers" is determined to be \$57.48 an hour.

Adding the prevailing wage for drivers of these five types of trucks from each of the state's 10 highway and heavy construction areas to the operating costs, the minimum hourly truck rental rate for the five types of trucks in each area is certified to be as follows.

Region 1	Tractor trailer	5 or more axle	4 axle	3 axle	Tractor only
April 4, 2011	\$97.23	\$74.04	\$70.43	\$76.45	\$85.77

[Select another region \(map\)](#) | [Prevailing wage truck rental rates](#)

Minnesota Department of Labor and Industry
443 Lafayette Road N., St. Paul, MN 55155 (directions/maps)
Phone: (651) 284-5070 (Labor Standards), (651) 284-5091 (prevailing wage) or 1-800-DIAL-DLI (1-800-342-5354); TTY: (651) 297-4198

File | Save Page As | PROJECT DELIVERY | Prevailing Wages

Move old schedule into:

j:\Project Delivery\Prevailing Wages\OLD WAGE SCHEDULES for REF ONLY

Lock-In Rules for Wage Decisions

City of Duluth

- The Wage Decision is locked in when the project is advertised.
 - A revision received **10 days or more before the bid opening** must be incorporated via an addendum.
 - A revision received **less than 10 days prior to the bid opening** may be incorporated if adequate time to notify bidders.

State of Minnesota

- The Wage Decision is subject to change until one day prior to the bid opening date.
 - Typically, the State wage decision is changed in the Fall: October to December
 - Most revisions will appear in December.
 - It is not uncommon for more than one revision to occur during those months.
 - <http://workplace.doli.state.mn.us.prevwage/highway.php>
 - Select: Region 1
- With US DOL wage decision(s) also in the project, check for updates at:
<http://www.wdol.gov>

State of Minnesota Truck Rental Rates

- Rates typically change in the Spring—month of April.
 - Keep checking the web site:
 - <http://www.doli.state.mn.us/LS/Prev WageTR1.asp>

Federal Government

- A revision received **10 days or more before the bid opening** must be incorporated via an addendum.
- A revision received **less than 10 days prior to the bid opening** may be incorporated if adequate time to notify bidders.
- Contract **not awarded within 90-days after the bid opening**, any wage decision revision must be incorporated unless the City requests and obtains an extension of the 90-day period by the US DOL.
- A Wage Decision expires between the bid opening and contract award dates, any new Wage Decision must be incorporated unless an extension is granted by the US DOL.

CDBG (HUD)

- Wage Decision revised **less than 10 calendar days prior to the formal bid opening** may be disregarded if insufficient time to notify bidders AND a report is made and filed with the project contract.
- Wage Decision **is locked-in at formal bid opening provided contract is awarded within 90-days.**
- Wage Decision must be updated **if the contract award exceeds 90 days** after the formal bid opening.
- Should construction commence before the bid opening or contract award, the wage decision(s) are locked-in at the start of construction.

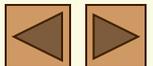
Prevailing Wages - How They're Applied

- ❏ A Davis-Bacon wage decision is simply a listing of different work classifications and the **minimum wage rates** that must be paid to anyone performing work in those classifications.
- ❏ Wage rates are established by the State of Minnesota and the federal government through a continuing program of surveys for obtaining and compiling wage rate information. (See 29 CFR 1.1 - 1.9)
- ❏ On State of Minnesota prevailing wages, typically two rates are specified. Should any project continue to and past the second effective date, that rate and fringe will be effective through the remainder of the project.
- ❏ When both the Federal General Decision wages and the State of Minnesota prevailing wages are included in a contract, the higher of the two rates applies.
- ❏ At the time a project is scheduled for bidding, the most current wage schedule is placed in the specifications dependent upon the funding source. Funding sources will determine if a wage decision may change dependent upon bid opening and/or construction award/start date.



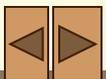
Prevailing Wages - How They're Applied

- ☞ The wage rates consist of two parts: (1) the minimum hourly rate, and (2) the fringe benefit package; together they total the prevailing wage.
- ☞ An employer may pay a lower hourly rate and higher fringe benefit rate than stated in the wage decision providing the total of the two rates is equal to or greater than the total in the wage decision; **however**, in this case, **the OT must be based on the minimum hourly rate specified in the wage decision or the rate paid, if it is higher.**
- ☞ Davis-Bacon does not allow payment of a higher RT rate with OT calculated on the lower prevailing wage rate
- ☞ OT is paid at 1.5x on the higher of the prevailing wage or what the employee is being paid, if it is higher
- ☞ Prevailing wages on certified payroll reports (CPRs) are audited for:
 - correct forms being used
 - payroll report number
 - City of Duluth project number
 - week ending date
 - Employee name and last four digits of SSN
 - classifications, corresponding group, and code numbers
 - appropriate regular and overtime rates
 - “other deductions” identified with (1) signed authorization from employee and/or (2) court ordered documents



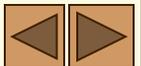
Prevailing Wages - How They're Applied

- appropriate regular and overtime rates
- RT and OT hours based on the established base workweek
 - on HUD funded projects and federal funded only projects:
OT over 40 hours per week
- hourly fringe benefit rate is examined (either paid to bona fide fringe programs or in cash); prompt payment of fringe benefits
- Apprentice to journeyworker ratio
- original signature on Statement of Compliance form
- On-site interviews reconciled to data of certified payroll report (CPR)



Prevailing Wages - How They're Applied

- Failure to pay the fringe benefits within the stipulations of the plan administrators **WILL** result in suspension of project payments
- Subcontractors who fail to make payments within the plan requirements will also result in the suspension of project payments
 - vacation pay is included
- Prime contractor (subcontractor, if applicable) will be notified by mail as well as the bonding company
- All monthly estimates will be checked for prompt fringe payments prior to release
- Cross-withholding will be applied



CPR & What's Required

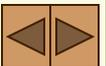
City, State with or without federal funds funded projects:

- Certified payroll form WH-347 or a reasonable facsimile
- Mn/DOT Statement of Compliance form 21658 (12-10)
 HUD Statement of Compliance (WH-348) alone is unacceptable
- State funding only:
 - Month End Trucking Report TP-90550 (12-10)

HUD funded projects and federal funded only projects:

- Certified payroll form WH-347 or a reasonable facsimile
- Statement of Compliance WH-348 which is on reverse side of WH-347
 MnDOT Statement of Compliance is also required completed in full

 Certified payroll reports are called certified as each payroll is signed and contains language certifying that the information is true and accurate. Any falsification may subject the contractor or subcontractor to prosecution.



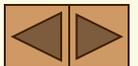
CPR & What's Required

Submitted WEEKLY beginning with the first week that worked is performed on the project.

City project number

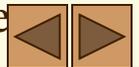
Sequential payroll report numbers

- No payrolls needed for weeks of no work; continue with the next sequence number on the next certified payroll report
- Mark the last payroll “Final”
- Each employee’s full name and last four digits of his/her SSN must appear on each certified payroll report (CPR)



CPR & What's Required

- Job classification title, corresponding group number, and classification code number. See Master Job Classifications listing from State of Minnesota, State of Minnesota prevailing wages; federal general decision prevailing wages list group numbers only.
- **Apprentices must be clearly marked AND state-approved apprentice paperwork must be submitted with the first payroll the apprentice appears.**
 - Apprentice paperwork is the contractor's responsibility; no general file is maintained for reference by City of Duluth Labor Standards
- **Apprentice to journeyman ratios are monitored** (see Supplemental General Conditions Part II 4/15/11 in the project contract).
- **Apprentices CANNOT work alone.**
- Working foremen, working superintendents, etc. **can** count as a journeyworker IF the title indicates a corresponding classification: electrician foreman/electrician apprentice
- An apprentice's regular time and overtime hours must match a corresponding journeyworker.
- Regular time and overtime hours must be separated.
- Gross dollars for the job must be separated from the gross total for the week, if different.



CPR & What's Required

- Deductions are based on the gross total for the week; “other” deductions must be identified with (1) signed authorization from the employee and/or (2) court ordered documents.
- Employees’ working in more than one classification must have each classification, hours, and rate paid listed on separate lines.
- Appropriate Statement of Compliance form completed in full with original signature: HUD-348 and MnDOT 21658 08-08) as each applies.
- Original signature: the individual signing the Statement of Compliance is the person who will be summoned to defend a CPR in court.



How To Correctly Fill Out the MnDOT Payroll Form.

This form is for the contractor's optional use. The contractor's option is to have a computer generated form. Although computer generated form must show all of the following information to be accepted as a payroll for the project.

Please include the lowest state project number as listed on the contract.

Fill Out Completely.

Payrolls must be numbered sequentially based on the weeks worked on the project. Write the word "Final" on the last payroll you submit.

Minnesota Department of Transportation Prevailing Wage Payroll Report

Contractor Name		John Line Construction				Prime Contractor Name				Line Development Inc.													
Address and Telephone #		595 John Ireland Blvd. St. Paul, MN				Address & Telephone #		1500 W. County Rd B2, Roseville, MN 55113															
State Project / Contract Number		Low Bid # or # On Specification	Pay Period End Date		7/7/00		Project Location		Roadway and County or City and Hwy/Tower Name		Payroll # 8												
(1) Employee Name, Address and Last Four Digits of Social Security Number		(2) # of Positions	(3) Enter Code and Classification Title	(4) ST	(5) On Day of Week (M, T, W, R, F, S, Su) A Day (24/7)			(6) Total Hours This Job	(7) Hourly Rate of Pay	(8) Gross Amount Earned This Pay Period	(9) Gross Amount Earned This Pay Period	(10) Deductions: FICA, Federal Tax, State Tax, medicaid, Other (Specify)	(11) Total Deductions	Total Net Wages Paid									
Contract Line Address City State Zip Code Last 4 digits of Social Security #		2	370	ST	Su	M	T	W	R	F	S	8.00	21.25	32.00	21.25	086.01	008.50	30.25	50.00	38.00	0.25	171.00	827.86

Employees Name, Address and Last 4 Digits of Social Security Number Must Appear on the Payroll that the Employee Works on the Project. Preceding Payrolls Only Require the Employee's Name.

Job Classification Number From the Contract Wage Determinations and/ or the Corresponding Job Title.

The Days and Dates of the Pay Period.

Total Overtime and Straight Time Hours Worked on this Project.

Total Gross Amount Earned this Pay Period.

Gross Amount Earned While Working on this Project for this Pay Period.

Net Amount Paid to the Employee for this Pay Period.

Must Accurately Reflect Overtime and the Straight Time Hours.

Minnesota State Statue 177.41 through 177.44:

The Prevailing Hours of Labor are **8 hours a day** and **40 hours per week**. All hours in excess of the prevailing hours of labor must be paid at 1.5 times the hourly rate of pay paid to the Laborer and Mechanic.

How To Report: Time and Wages If An Employee Works in More Than One Classification During the Pay Period

An Employee That Only Works on This Project During the Pay Period.

Minnesota Department of Transportation Prevailing Wage Payroll Report

Contractor Name		John Doe Construction				Prime Contractor Name		Doe Development, Inc.															
Address and Telephone #		145 John Ireland Road - St. Paul, MN				Address & Telephone #		1501 W. County Rd 102 - Roseau, MN 55113															
State Project / Contract Number		Low Bid # or # of Specifications		Pay Period End Date			W200		Project Location		Roadway and County or City and Bldg/Tower Name				Payroll #								
(1)		(2)		(3)			(4)		(5)		(6)				(7)								
Employee Name, Address and Last Four Digits of Social Security Number		# of Employments	Labor Code and Classification Title	OT & ST	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total Hours (per Job)	Hours Worked on Proj	Gross Amount Earned This Job	Gross Amount Earned This Pay Period	FICA	Federal Tax	State Tax	Other (Specify Deductions)	Other (Specify Deductions)	Total Deductions	Total Net Wages Paid	
					Hours Worked Each Day																		
Curtis Doe Address City/State/Zip Code Last 4 Digits of Social Security #		2	370 Maintenance Worker	OT								15.00	21	310.75	324.95	16.00	42.00	16.00	4.00		79.00	311.95	
			101 Laborer, Common	OT			4.00					4.00	19.00	28.34									
Robert Austin Address City/State/Zip Code Last 4 Digits of Social Security #		1	704 Carpenter	OT	0.00	0.00	0.00	0.00	6.00			16.00	22.00	174.30	174.30	36.25	31.00	30.00	9.00		112.50	243.80	

Curtis Doe Worked in More Than One Classification During This Pay Period.

Break The Classifications Apart by Using Two or More Lines on the Payroll Report To Distinguish the Different Classifications.

Combine the Two Classifications for the Gross Amount Earned for this Project and Total Gross Amount Earned this Pay Period.

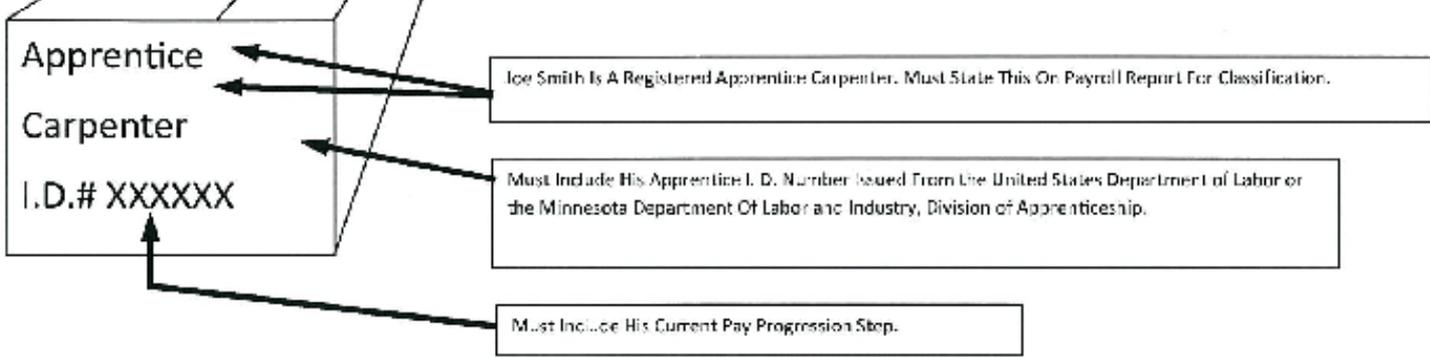
Robert Austin Only Worked on This Project During This Pay Period.

The Gross Amount Earned for this Project and The To-

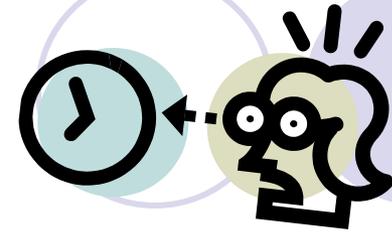
How To Report: A Registered Apprentice Working On The Project.

Minnesota Department of Transportation Prevailing Wage Payroll Report

Contractor Name		John Doe Construction							Prime Contractor Name			Doe Development Inc.										
Address and Telephone #		365 John Island Blvd. St. Paul, MN							Address & Telephone #			1501 W County Rd 02 Roseville, MN 55118										
State Project / Contract Number		Lohn CER # or # U1 Specification		Pay Period End Date			A / (B)		Project Location			Highway and County or City and Block/Tower Name			Payroll #	#						
(1)	(2)	(3)	(4)	(5) Day of Week (Su, M, Tu, W, Th, F, Sa, Su & 2008 1000)							(6)	(7)	(8)	(9) DEDUCTIONS						(11)		
Emp. Name, Home Address and Last Four Digits of Social Security Number	# of Emp. here	Labor Code and Classification Title	O/I S O/I	Su	M	T	W	Th	F	Sa	Su	Total Hours This Job	Hourly Rate of Pay	Gross AMOUNT EARNED This Job	UNEMP Amount Earned This Pay Period	FICA	FEDERAL TAX	State Tax	Other (Society) Medicare	Other (Society) Deductions	Total Deductions	Total No. of Wages Paid
				Hours Worked Each Pay																		
Joe Smith Address City State Zip Code Last 4 digits of Social Security #	2	Apprentice Carpenter	OT											162.00	324.00	16.00	40.00	16.00	4.00		76.00	318.00
Jane Johnson Address City State Zip Code Last 4 digits of Social Security #	10	Carpenter	OT		8.00	8.00				8.00		24.00	21.25	510.00	510.00							510.00



OVERTIME



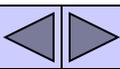
- **CITY OF DULUTH solely funded projects**

- Establish base workweek of: five 8-hour days **OR** four 10-hours days
- Base workweek must be clearly marked on each payroll and/or beside employees' names
- Daily overtime is paid on hours in excess of those base hours
- Overtime payments may not be withheld until 40 hours per week have been reached
- May pay a lower hourly rate and higher fringe benefit rate providing it is equal to or greater than the established prevailing wage in the contract; **HOWEVER**, **in this case, overtime must be paid on the minimum hourly rate specified in the contract wage decision or the rate being paid, if it is higher.**
- Davis-Bacon does not allow payment of a higher RT rate with OT calculated on the lower prevailing wage rate
- OT is paid at 15.x on the higher of the prevailing wage or what the employee is being paid—whichever is higher/



OVERTIME

- **State of Minnesota funded with/without federal funds**
 - Base workweek must be five 8-hours days
 - Overtime based on hours exceeding eight per day | all hours over 40 per week
 - Overtime payments may not be withheld until 40 hours per week have been reached
 - Overtime is calculated on 1.5 times the higher of the prevailing wage or what the employee is being paid—if it is higher.
 - May pay a lower hourly rate and higher fringe benefit rate providing it is equal to or greater than the established prevailing wage in the contract; HOWEVER, in this case, overtime must be paid on the minimum hourly rate specified in the contract wage decision
 - Davis-Bacon does not allow payment of a higher RT rate with OT calculated on the lower prevailing wage rate



OVERTIME

- **HUD funded and Federal funded only projects:**

- Applies to prime contracts over \$100,000 [contracts less than \$100,000: many employers are subject to FLSA which is enforced by the U. S. Department of Labor]
- Overtime based on 40 hours per week
- Overtime paid on all hours exceeding 40 per week; applies only to hours worked on the project
- Overtime is calculated on 1.5 times the higher of the prevailing wage or what the employee is being paid
- May pay a lower hourly rate and higher fringe benefit rate providing it is equal to or greater than the established prevailing wage in the contract; HOWEVER, in this case, overtime must be paid on the minimum hourly rate specified in the contract wage decision
- Davis-Bacon does not allow payment of the higher RT rate with OT calculated on the lower prevailing wage rate



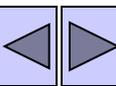
OT Examples

City of Duluth or State of Minnesota funding



- Base of Five 8-Hour workdays

	Mon	Tue	Wed	Thur	Fri	Sat	TOT
TT	10	10	10	10	6		46
RT	8	8	8	8	6		38
OT	2	2	2	2			8



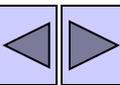
OT Examples

City of Duluth or State of Minnesota funding



- **Base of Five 8-Hour Workdays**

	Mon	Tue	Wed	Thur	Fri	Sat	TOT
TT	12	10	8	8	Rain	10	48
RT	8	8	8	8		8	40
OT	4	2	0	0		2	8



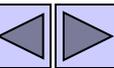
OT Examples

City of Duluth funding only



- Base of Four 10-Hour Workdays

	Mon	Tue	Wed	Thur	Fri	Sat	TOT
TT	8	15	9	8			40
RT	8	10	9	8			35
OT	0	5	0	0			5



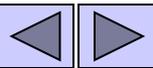
OT Examples

City of Duluth funding only



Base of Four 10-Hour Workdays

	Mon	Tue	Wed	Thur	Fri	Sat	TOT
TT	12	Rain	10	Rain	12	12	46
RT	10		10		10	10	40
OT	2		0		2	2	6



OT Examples

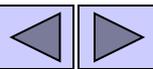
City of Duluth funding only



- **Base of Four 10-Hour Workdays**

	Mon	Tue	Wed	Thur	Fri	Sat	TOT
TT	12	12	12	12	12		24
RT				4			4
OT				8	12		20

- Employee worked 36 hours on a non-prevailing wage job for contractor (Mon – Wed)
 - OT based on 40 hours per week.
- Thursday - began work on prevailing wage project
 - Base workweek is four 10-hr days.
- Mon-Wed hours totaled 36; four more hours on Thursday brought total RT to 40 hours.
- All remaining hours on Thursday plus those worked Fri are paid at OT rate.

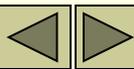




Trucking Requirements & Reports

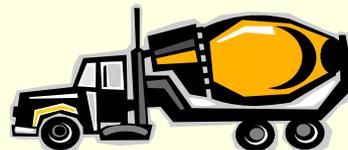
■ Requirements

- Certified payrolls required from ALL multiple truck operations, partnerships, and corporations which have workers on a City of Duluth construction project regardless of funding
- ITO's must submit copies of their CDL, cab card, and insurance certificate for each truck being operated before commencing work on the construction project
- Each partner performing work on a project must submit a copy of his/her CDL, cab card and insurance certificate for the truck being operated with that weekly certified payroll; it is not necessary to repeat such supporting documentation until a different truck is used and/or certificates or licenses have expired
- Continued definitions in City of Duluth Supplemental General Conditions Part II 4/15/11 within City of Duluth Mini-Davis-Bacon section of the project contract
- Prevailing wage (with fringe benefit) must be paid to ALL drivers excepting ITO's; ITO's subject to the trunk rental rate on State of MN funded projects
- Brokers: submit month end trucking report; indicate broker fee



Month-End Trucking Reports

- Only required with State of Minnesota funding.
- Authority:
 - Minnesota Rules 5200.1106, subpart 10. Required Employee Records. “If the commissioner of transportation or the commissioner of labor and industry requests any payroll information, the contract, subcontractor, or trucking firm shall submit the information to the department together with any certification forms approved by the requesting department...”
- Purpose:
 - To document hauling activities performed on construction projects.
 - Month-End Trucking Reports replace the Request to Sublet form for trucking subcontractors performing work under the project.
 - Certified payroll reports from ITO’s are no longer required.
 - MTO’s, partnerships, and corporations must still submit weekly certified payroll reports.

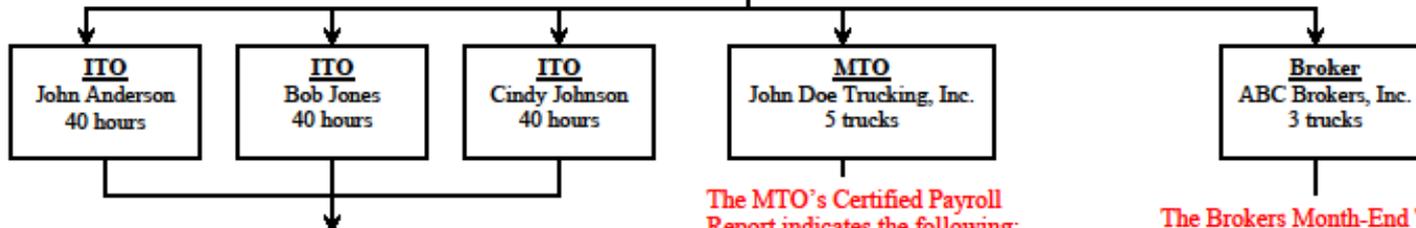


Mn/DOT's Month-End Trucking Report Flow Chart

Prime Contractor/Subcontractor
Road Builders, Inc.
Truck Report: 11 Trucks

A month-end trucking report shall be submitted by a prime contractor, subcontractor, trucking company / MTO or trucking broker contracting to provide trucking services. These reports shall be submitted in accordance with the time frames specified on the Month-End Trucking Report Statement of Compliance Form.

Prime Contractor's Month-End Trucking Report indicates the following:



The MTO's Certified Payroll Report indicates the following:

Certified Payroll Report
Ben Stanley – 40 hours
Josh Craftsman – 40 hours
Amy Redman – 40 hours
Barb Makita – 40 hours
Joe DeWalt – 40 hours

The Brokers Month-End Trucking Report indicates the following:

Month-End Trucking Report
(ITO) Rick Miller – 40 hours
(ITO) Dawn Erickson – 40 hours
(ITO) Steve Olson – 40 hours

Contractor:

The prime contractor's truck report certifies that John Anderson, Bob Jones and Cindy Johnson are ITOs. Therefore, no additional documentation is needed. However, the contractor shall collect and maintain information pursuant to Minnesota Rules 5200.1106, Subparts 7A and 9.

Department:

The department shall review the prime contractor's Month-End Trucking Report(s) to ensure that the applicable certified truck rental rates were paid to the ITOs.

Contractor:

The prime contractor's truck report certifies that John Doe Trucking, Inc. is a Trucking Company / MTO. Therefore, in order to account for the 5 trucks, the prime contractor shall collect and submit a certified payroll report and/or month-end trucking report for John Doe Trucking, Inc.

Department:

The department shall review the reports to determine if all the trucks are accounted for and that John Doe Trucking, Inc. has demonstrated compliance with the certified prevailing wage rates and/or truck rental rates.

Contractor:

The prime contractor's truck report certifies that ABC Brokers, Inc. is a broker. Therefore, in order to account for the 3 trucks, the prime contractor shall collect and submit a certified payroll report and/or month-end trucking report for ABC Brokers, Inc.

Department:

The department shall review the reports to determine if all the trucks are accounted for and that ABC Brokers, Inc. has demonstrated compliance with the certified prevailing wage rates and/or truck rental rates.

For additional information, please refer to the Labor Compliance Website at:

<http://www.dot.state.mn.us/const/labor/>

Month-End Trucking Reports

- Submitted within ten days of the end of the month to the City of Duluth Labor Standards representative.
- The prime contractor must notify trucking subcontractors of the truck rental rates AND the hourly prevailing wage rates for those firms who must submit certified payroll reports.
- The truck rental rates must be posted along with the other required project posters.
- Current rates may be found on this web site:

<http://www.doli.state.mn.us/LS/PrevWageTR1.asp>

- Month-End Trucking Report forms are on this web site:

<http://www.dot.state.mn.us/const/labor/forms.html>



Trucking Requirements & Reports

State of Minnesota funded projects only

■ Reports

- Month End Trucking Report (MnDOT 90550 12-10)
- Month-End Trucking Report Statement of Compliance (MnDOT TP-90552 12-10)
- Submitted to City of Duluth Labor Standards within ten working days of the month ending
- Send originals only—faxed copies will not be accepted
- Checked against certified payroll reports from trucking operations
- Reviewed for accuracy and correct payments
- Forms and instructions: <http://www.dot.state.mn.us/const/labor/forms.html>
- Will result in delay of monthly estimates if:
 - Not submitted when required
 - Inaccuracies found and not corrected
 - Fringe benefit payments are delinquent



Trucking Requirements & Reports

■ Truck Rental Rates

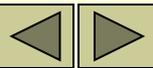
- Effective December 20, 2004, minimal truck rental rates were established and applied to bids on or after that date.
- State of Minnesota funded projects only will incorporate these rates into each contract.
- Current certified truck rental rates and can be viewed by visiting:
 - <http://www.doli.state.mn.us/LS/PrevWageTR1.asp>

■ Trucking Report Instructions & Forms

- MnDOT web site: <http://www.dot.state.mn.us/const/labor/forms.html>

■ Axle Count

- A truck unit refers to all axles including the steering axle; a tag axle is also counted as one of the axles.
 - Four rear axles plus one steering axle = five axles total
 - One rear axle plus one steering axle = two axles total



Commercial Establishment Definitions

- **Commercial Establishment exemption does not apply to: Rock, Sand, or Gravel [mineral aggregates] when stockpiling.**

- **IF the firm is:**
 - a fixed place of business AND
 - regularly supplies the material or product to the general public AND
 - workers of the commercial establishment work by and for that firm:
 - **THEN**, prevailing wage is NOT APPLIED to employees involved in the processing or manufacturing of materials OR to employees delivering the material to the project site.

- **EXCEPTION: Prevailing wage DOES APPLY to workers involved in the delivery of “mineral aggregates” from a commercial establishment when the material is deposited substantially in place.**



Commercial Establishment Definitions

- **Blacktop and Concrete ARE NOT mineral aggregates.**
- **Prevailing Wage laws exempt a supplier who qualifies as a commercial establishment**
 - A truck driver depositing blacktop from a commercial establishment via a dump truck into a spreader is **not** subject to prevailing wage. The truck driver is not performing construction work and is considered to be making a delivery only.
 - A truck driver depositing concrete from a commercial establishment via a concrete mixer truck is not subject to prevailing wage. The truck driver is not performing construction work and is considered to be making a delivery only.
 - An employee operating the blacktop spreader IS subject to prevailing wage as he/she is performing construction work on the project site.
 - Employees spreading and finishing the concrete as it is deposited by the concrete mixer truck ARE subject to prevailing wage as they are performing construction work on the project site.



Stockpiling

- The transportation of mineral aggregate **from a commercial establishment** (i.e., rock, sand, gravel, limestone—*does not include* topsoil, clay, dirt, blacktop, or concrete) on the job site which was **subsequently re-transported** in individual loads by a front end loader or other means to back fill foundations, trenches, high fills, or roadway beds, etc. **generally would not be covered under the prevailing wage** as the material was not deposited where it could be spread from or compacted at the location where it was deposited.

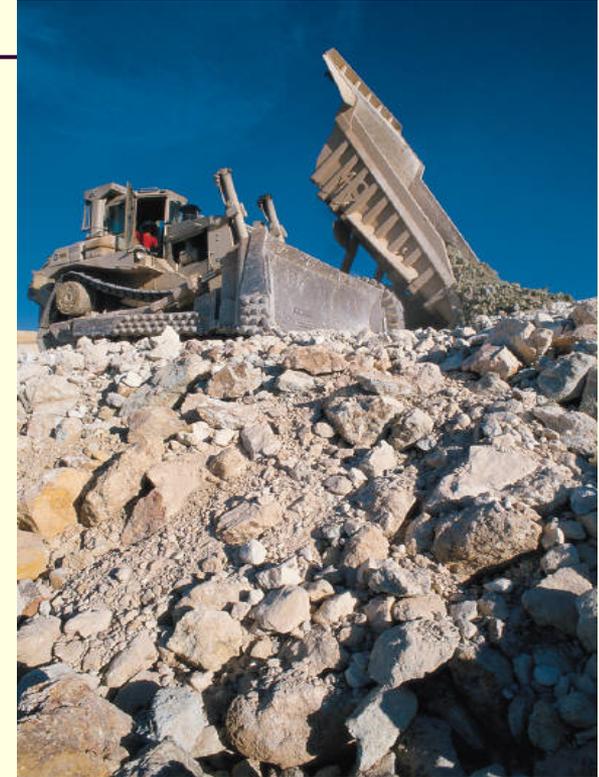
- Deposited distances applied:
 - Variable
 - Re-transported one block or more and then spread for use--stockpiling applies
 - Case-by-case basis



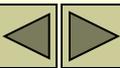
Substantially In Place

- Mineral aggregate supplied from a commercial establishment and deposited so close to the subcut and in a way that it could be spread from or compacted at the location where it was placed to fill the subcut, *generally*, would be considered substantially in place because the placement was where it could be spread from or compacted and is covered under prevailing wage.
- Case-by-case basis
- Blacktop and concrete are not considered mineral aggregates.

Substantially in place ONLY applies when hauling from a commercial establishment.



The greater the distance from the subcut, swamp, foundation, trench, or high fill to the location of the pile where the mineral aggregate is dumped, the more likely the activity is not covered by prevailing wage as the material is less likely to be deposited where it can be spread from or compacted at the location where it was deposited.



On and Off Site Hauling

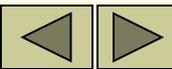
■ **SUBJECT TO prevailing wage:**

- Any material hauled off-site
- Includes the time involved driving to the dump site and the return trip to the project site empty or loaded.
- Mineral aggregates deposited substantially in place by a commercial establishment.
- Delivery of clay, topsoil, or dirt NOT by a commercial establishment deposited substantially in place.



■ **NOT subject to prevailing wage:**

- Mineral aggregates stockpiled when delivered from a commercial establishment.
- Clay, topsoil, dirt, blacktop, or concrete when delivery is by and for a commercial establishment



Commercial Establishments

■ Bituminous Example:

- The prime contractor, Randall Excavating, subcontracted the bituminous overlay work to Glacier Paving for a street construction project.
- Glacier Paving:
 - Its own workforce will produce the bituminous material at their commercial asphalt plant, which is a fixed place of business that regularly supplies bituminous material to the public.
 - Will utilize its own workforce to deliver the bituminous material to the project and place the material in its own spreader which is operated by its employee.
- Prevailing wage is not applied to employees who produce the bituminous at Glacier Paving's plant.
- Prevailing wage is not applied to drivers depositing the blacktop directly into Glacier Paving's on site spreaders.
- Prevailing is applied to the worker operating the blacktop spreader.
- Glacier Paving does not appear on Randall Excavating's month-end trucking report as it is considered a material supplier.



Commercial Establishments

■ Bituminous Example:

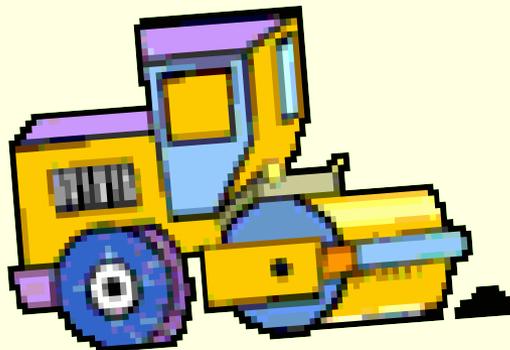
- Northland Constructors, Inc. is a prime contractor which owns a separate commercial bituminous plant: Northland Bituminous. Thorman Trucking is hired to haul blacktop from that bituminous plant to Northland Bituminous' on-site spreaders.
- Thorman Trucking is considered a material supplier and uses its own employees and trucks.
- As a material supplier, Thorman Trucking's truck drivers are not subject to prevailing wage as the drivers are not performing construction work on the project site. Thorman Trucking does not appear on Northland Constructor's month-end trucking reports.
- Thorman Trucking needs additional trucks and hires Midwest Trucking (an MTO—multiple truck operation) to assist in hauling bituminous to the project site.

Midwest Trucking DOES NOT pay its drivers prevailing wage as Midwest Trucking is working by and for Thorman Trucking which is a material supplier. Midwest Trucking's drivers are not performing construction work on the project site. Midwest Trucking does not appear on any month-end trucking report.



Commercial Establishments

- Continued:
-
- Certified payroll reports are not required from either Thorman Trucking or Midwest Trucking.
 - Northland Bituminous also uses its own employees and equipment to haul the blacktop and operate the spreaders.
 - As the bituminous plant is a commercial establishment, Northland Bituminous' truck drivers are not subject to prevailing wage when depositing the blacktop directly into the on-site spreaders.
 - The spreader operators ARE subject to prevailing wage as these employees are performing construction work on the project site.



Commercial Establishments

■ Mineral Aggregates Example:

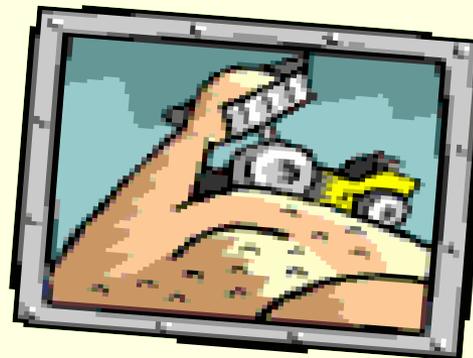
- The prime contractor, Nels Nelson & Sons, Inc., hired Viele Contracting, Inc. to deliver sand and gravel from Viele's pit via Viele's trucks and employees to the project site.
- Viele Contracting, Inc. also hires an MTO (multiple truck operation) called Mahnke Trucking and two ITO (independent truck operators) to assist.
 - The commercial establishment exemption does not apply to rock, sand, or gravel. Though Viele Contracting, Inc. is a commercial establishment, the mineral aggregates void the exemption.
 - Drivers from Viele Contracting, Inc. must be paid prevailing wage **IF** they are dumping the material substantially in place—this is considered a construction activity.
 - Employees working in Viele's pit are not subject to prevailing wage.
 - Drivers for Mahnke Trucking must be paid the prevailing wage for any material that is deposited substantially in place (it is not stockpiled).
 - Mahnke Trucking is paid the truck rental rate and must also submit certified payrolls for any employees who deposit material substantially in place.
 - Nels Nelson & Sons, Inc. pays Viele Contracting, who, in turn, pays Mahnke Trucking, who, in turn, pay its drivers.
 - The ITOs are paid the appropriate truck rental rate by Viele Contracting.
 - Viele Contracting, Inc. is considered a material supplier and does not appear on Nelson's month-end trucking report



Commercial Establishments

■ Mineral Aggregates Example:

- Ulland Brothers, Inc. is the prime contractor.
- Midwest Trucking (an MTO) is hired as a subcontractor to haul mineral aggregates from Viele Contracting's pit.
- Viele Contracting qualifies as a commercial establishment and its gravel pit employees are exempted from prevailing wage.
- Midwest Trucking must pay its truck drivers prevailing wage as Midwest Trucking is not employed by Viele Contracting – it is employed by Ulland Brothers, Inc.



Non-Commercial Establishments

A prime contractor is NOT entitled to the commercial establishment exemption by providing material to itself.

Example:

- **Tanner Construction is a prime contractor who has a bituminous plant which IS NOT a separate entity from the construction company.**
- Dougherty Trucking is hired to haul hot mix from that plant to Tanner Construction's on-site spreaders.
- Dougherty Trucking is a MTO and uses its own employees and trucks.
- Dougherty Trucking is not subject to prevailing wage and does not appear on Tanner's Construction's month-end trucking reports.
- Dougherty Trucking needs additional trucks and hires Dean's Trucking (another MTO-multiple truck operation) to assist in hauling bituminous to the project site.
- Dean's Trucking does not pay its drivers prevailing wage as Dean's Trucking is working by and for Dougherty Trucking.
- Certified payrolls are not required from Dean's Trucking as they are not performing work under the contract by depositing the blacktop directly into on-site spreaders.
- Tanner Construction also uses its own employees and equipment to haul the bituminous and operate the spreaders. Tanner Construction does not qualify as a commercial establishment because its bituminous plant is not a separate entity. Its truck drivers are subject to prevailing wage as well as its spreader operators.

Tanner Construction's blacktop operation is included in the corporation and is not a separate entity; therefore, the commercial establishment exemption is not applied.



DATA FOR LABOR COST BIDDING

NOTE:

Wage Decisions are subject to change due to lock-in rules and revisions near the bid opening.

Project No.:

Name:

This project is funded by:

City of Duluth

The base workweek may be:

Five 8-hour days

OR

Four 10-hour days

with OT on daily hours exceeding either

/ OT on all Hours after 40 per week

The project [DOES or DOES NOT] contain a *project labor agreement (PLA)*.

Should a project contain a project labor agreement:

- 1) Union scale may **not** be reflected in the prevailing wage schedule(s)
- 2) Note Article II Section 10 for trucking labor costs

City of Duluth funding only:

Each certified payroll must indicate the base workweek on the accompanying MnDOT Statement of Compliance form and beside each employee's name when his/her hours differ from the normal base workweek, if applicable.

OVERTIME REQUIREMENTS:

For projects funded by the City of Duluth: overtime must be paid on daily hours worked in excess of the base daily hours. Contractors (including sub-contractors) are not allowed to pay overtime solely on hours in excess of forty per week.

The overtime rate must be paid at NO LESS than the rate of pay as established in the project's wage decision multiplied by one and one-half OR the base rate the employee is being paid if it is higher than the wage decision base rate.

Project Prevailing Wage Decision: U S DOL [enter name(s) and date of decision(s)]

On-Site Monthly Interviews

Why is interviewing workers on a project important?

Interviewing workers on the project site of work is necessary to ensure that all workers are compensated appropriately. The information collected is compared to a certified payroll report to determine if compliance has been demonstrated. In other words, are workers being paid correctly for the actual work being performed?

At any time, the prime contractor and any subcontractors must permit representatives from the U.S. DOL, the Federal Highway Administration, State of Minnesota, or the City of Duluth to perform worker interviews on the project; the time for such interviews shall be paid time.

City of Duluth and State of Minnesota funded projects must use: the Field Compliance Review on Labor Provisions form.

<http://www.dot.state.mn.us/const/labor/documents/forms/field-compliance-review.pdf>

CDBG (HUD) and Federally funded projects must use:

www.hud.gov/offices/adm/hudclips/forms/files/11.doc

CDBG (HUD) will permit using a letter should a field interview not be possible:

www.hud.gov/offices/adm/hudclips/forms/hud4.cfm click on form 4730

Apprentices

- Obtain the state-approved apprenticeship papers.
- Apprentices are not permitted to work alone—they must be accompanied by a journeyworker or working foreman within the same classification.
- Ratios are found in the particular classification's labor agreement. That is obtained by calling the specific union office.
- Classifications without a ratio must use the State of Minnesota's ratios.
- Backpay is required when out-of-ratio occurs.
 - Using the following ratio guides, compute those apprentices out-of-ratio on all CPRs.



Journeyworkers must be on site with the apprentices and their hours must match.

FUNDING SOURCE:

City of Duluth and State of MN with or without Federal funding

- Apprentices are not permitted to work alone under any circumstances.
- Working foremen are acceptable as a journeyworker PROVIDING he/she is in the same classification.
 - Example: carpenter foreman and carpenter apprentice
- Ratios are determined by the trade's labor agreement.
- In the absence of ratio language, the following State of Minnesota apprenticeship ratios will be applied:
(apprentice:journeyworker) 1:1 2:4 3:7 4:10, etc.
- Employees working in excess of the allowable ratio must be paid the full journeyworker compensation.
- Out-of-ratio apprentices will be calculated beginning with the **apprentice at the highest level of training** and, then, to less senior apprentices in their rank order.
- Should two or more out-of-ratio apprentices have the same level of training, whomever was on the work site first will receive journeyworker pay; if the apprentices at the same level of training began work on the project site at the same time, hours worked out-of-ratio for which restitution is due will be divided among those apprentices.

- Examples:

Four apprentices working unsupervised are on site. [4:0]

Ratio calls for four apprentices and ten journeyworkers [4:10]

Correction: all apprentices will receive the full journeyworker compensation as apprentices are not permitted to work alone.

Three apprentices and two journeyworkers are on site. [3:2]

Ratio calls for three apprentices and seven journeyworkers [3:7]

Two journeyworkers may accompany only one apprentice; therefore, the two highest level apprentices are paid the full journeyworker compensation.

Even though this particular job has three apprentices—the second journeyworker is a moot point; a third journeyworker would also be a moot point in this example.

Correction: the two highest level apprentices are paid the full journeyworker compensation and the third lower level apprentice is considered in ratio.

H U D (CDBG) and Federal funding only

- Apprentices are not permitted to work alone unless the U. S. Department of Labor-approved agreement allows that practice.
- Working foremen are acceptable as a journeyworker PROVIDING he/she is in the same classification.
 - Example: electrician foreman and electrician apprentice
- Ratios are determined by the trade's U. S. Department of Labor-approved agreement.
- In the event of the absence of ratio language in the applicable agreement, the Minnesota Department of Labor ratio of one apprentice for the first journeyworker and one apprentice for each three journeyworkers thereafter will be applied, (i.e., 1:1, 2:4, 3:7, 4:10, etc.).
- The **legal apprentices are those who first came to work on the job site**; in the event that all apprentices begin work on the project site at the same time, hours worked out-of-ratio for which restitution is due will be divided among the apprentices.
- Time cards will be required to substantiate the start times.
- Employees working in excess of the allowable ratio--or for which U. S. Department of Labor-apprentice agreement/certificate is not provided--must be paid the full journeyworker compensation.
- Examples:
 - Four apprentices and one journeyworker are on site. [4:1]
Ratio calls for four apprentices and ten journeyworkers. [4:10]
The first apprentice on site is considered in ratio as one journeyworker may only accompany one apprentice [1:1]; this particular job has four apprentices.
Correction: the second through the fourth apprentices coming on site are paid the full journeyworker compensation.
 - Six apprentices and two journeyworkers are on site [6:2]
Ratio calls for six apprentices and sixteen journeyworkers [6:16]
The first apprentice on site is considered in ratio as two journeyworkers may only accompany one apprentice; this particular job has six apprentices--the second journeyworker is a moot point.
Correction: the second through sixth apprentices coming on site are paid the full journeyworker compensation.

Backpay Procedures



- **Backpay may result from:**
 - Incorrect wages paid meaning: prevailing wage total of base rate plus fringe benefits was underpaid.
 - Incorrect base rate was applied to the overtime (see Overtime section)
 - Apprentices out-of-ratio (see Apprentices section)

- **The contractor (prime or sub) must be notified; via e-mail is best.**
 - Detail what has happened.
 - Show the difference in wages: prevailing wage package and total pay package.
 - Indicate the week(s) ending the infringement occurred, who the employee(s) is, and the hours involved.
 - If a subcontractor is involved, copy the prime in the e-mail, letter, fax.
 - The contractor needs to supply a copy of the backpay check(s) including the “stub,” a certified payroll report (CPR), and the MnDOT Statement of Compliance for the entire backpay.
 - Above documents must be mailed to the Labor Compliance Technician.
 - Audit backpay for compliance.

IC-134 Withholding Affidavit for Contractors



This form **must be received** from the **prime contractor, subcontractors regardless of tier** before the retainage is paid.

- The prime contractor will obtain the IC-134's for all the subcontractors.
- It is not uncommon for the prime contractor to be unaware of third and fourth tier subs hired by another subcontractor.
 - It is still the prime contractor's responsibility to obtain the IC-134.
- Reconcile these with the CPRs received and logged for the project.
- Retainage may be paid **ONLY** after all IC-134s and CPRs are received, audited, and reconciled.
- Watch for discrepancies:
 - IC134's received with no CPRs
 - CPRs received and no IC-134
- Encourage all contractors to file on-line: www.mndor.state.mn.us

IC-134 hard copy web site:

http://www.revenue.state.mn.us/Forms_and_Instructions/ic134.pdf

HUD-CDBG Letters & Specifics

HUD-CDBG funding requires Letter **LR-96-01** to be inserted into the contract\project specifications.

- A sole proprietor may not submit a CPR reporting him\herself as “owner” and signing to certify his\her wage payment from draws or other payment methods.
- Several mechanics-laborers may not submit a CPR reporting themselves as partners with one or more certifying to the payment of their wages and salaries.
- Such **laborers-mechanics must be listed on the prime contractor’s or subcontractor’s CPR (the responsible employer)** for whom they are working and with whom they have executed a contract for services.
- Owners of Business Working with Their Crew:
 - ONLY when working with their crews may owners of businesses certify the payment of their own prevailing wages.
- Use the HUD Certified Payroll Checklist 6-16-05 with each project.

HUD Certified Payroll Check List

6/15/05

Project Name: _____

Project Number: [enr] _____ [CD] _____

- Wage Decisions
 - Coordinate with Purchasing: **prior** to any bid letting (date: _____)
 - project that includes CDBG and/or federal funds
 - Formal bid opening and award dates: _____
 - ___ attach documentation
 - Verify correct wage decision: _____
 - locked-in providing contract is awarded within 90 calendar day limit
 - Contract award date: _____
 - ___ attach (memo/email) documentation
 - ___ double check correct wage decision
 - Prime contractor's name: _____
- List of bidders (debarment list check) from Purchasing **prior** to opening date: Names of all companies submitting bids: _____
 - attach list
- Debarment at bid opening checked (date: _____)
 - ___ attach (memo/email) documentation
- Minutes from preconstruction meeting: (date: _____)
 - ___ attach documentation
 - ___ packet with wage decision, posters, etc. (This and next two items may be discussed with payroll coordinator—get name and phone number)
 - ___ discuss Davis-Bacon certified payrolls
 - ___ discuss confidentiality of certified payrolls
 - ___ construction authorization and start date
 - ___ documentation for construction start date from engineer/architect (memo/email)
- Construction start date: _____
 - ___ attach documentation
- Review weekly payrolls: (use Contractor's Guide)
 - ___ "other" deductions identified [i.e. fringe, garnishment, alimony]
 - ___ copy of employee's authorization for voluntary deductions (i.e., medical plans, life ins, 401K's, loan repayments)
 - ___ group designation and classification number (class numbers from State of MN only)
 - ___ apprenticeship papers **with** ratio to journeymen information
 - * data comes from contractor; no bona fide ratio info with revert to State of MN ratios
 - ___ WH347 or WH348 Statement of Compliance
 - ___ hourly wages paid checked against wage decision
 - ___ fringe benefit listing (box 4A or 4B, checked) / fringe benefit listing
 - ___ original signatures on payrolls
- Employee surveys: (when, where, & who)—use form HUD-11 "Employee Interview"
 - ___ interviews _____
 - ___ letters with deadline for return _____
- Site visit: (when, where, & who)
 - ___ interviews _____
 - ___ posters _____
- IC-134 received: _____
 - * no retainage released until all received and all payrolls approved *
- Final approval by Architect or Engineering: _____
 - * attach documentation stating project is complete--with final estimate *

This page is located on the U.S. Department of Housing and Urban Development's Homes and Communities Web site at http://www.hud.gov/offices/olr/olr_9601.cfm.



Labor Standards Compliance Requirements

Date: December 2, 1996

(Rev 1) Letter No. LR-96-01

Subject: **Labor standards compliance requirements for self-employee laborers and mechanics (aka *Working Subcontractors*)**

- I. HUD policy on prevailing wage applicability.
- II. Compliance and certification parameters.
- III. Owners of businesses working with their crews.
- IV. Owner-Operators of power equipment.
- V. Truck drivers.

The Federal prevailing wage requirements and compliance standards for self-employed laborers and mechanics (also referred to as "working subcontractors") have long been a confusing and contentious area for the Department of Labor (DOL), HUD, the Internal Revenue Service and contractors and subcontractors.

The following policy represents an effort to provide practical guidance for field application. The guidance more specifically concerns the wage certification requirements for self-employed mechanics and laborers on projects subject to Federal labor standards provisions including Davis-Bacon and HUD-determined maintenance and nonroutine maintenance prevailing wage rate determinations. This policy does not attempt to establish whether working subcontractors are subject to Federal labor standards nor whether such working subcontractors are *bona fide*. The clear meaning of statutory provisions and regulatory definitions does not require further examination of applicability. Additionally, statutory and regulatory language are clear that the question of whether certain self-employed laborers and mechanics are bona fide subcontractors is not germane to the issue of prevailing wage standard applicability.

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I. *HUD policy on prevailing wage applicability.*

The Davis-Bacon Act (DBA), HUD program Related Acts (DBRA) concerning the payment of prevailing wages as determined by the Secretary of Labor, and the U.S. Housing Act of 1937 concerning the payment of prevailing wage rates established by HUD provide that the wage protections afforded in these statutes apply to laborers and mechanics employed on the covered work. The DBA and DBRA implementing regulations (29 CFR Part 5) specifically stipulate that these protections are provided **regardless of any contractual relationship which may be alleged to exist** between the contractor and such laborers and mechanics. Additionally, **all laborers and mechanics must be paid unconditionally and not less often than once per week.** HUD has followed DBA/DBRA prevailing wage parameters in its implementation, administration and enforcement of HUD-determined maintenance and nonroutine maintenance prevailing wage standards. (NOTE: The requirement to pay weekly wages is not applicable to the payment of prevailing routine

maintenance wage rates related to laborers and mechanics engaged in the operation of PHA and IHA housing developments.)

Therefore, it is HUD policy that in all cases where laborers and mechanics are employed on Federal prevailing wage-covered construction, maintenance and nonroutine maintenance work, laborers and mechanics shall be entitled to compensation (in the case of Davis-Bacon wages, *weekly* compensation) at wage rates not less than the prevailing rate for the type of work they perform **regardless of any contractual relationship alleged to exist between a contractor or subcontractor and such laborers or mechanics.**

The above policy statement is not a departure from previous HUD directives. The guidance presented below establishes uniform HUD-assisted program contract administration and enforcement parameters for labor standards compliance and prevailing wage certification.

II. Compliance and certification parameters.

HUD policy clearly affords prevailing wage protection for all laborers and mechanics, regardless of contractual relationship. **There is no exception to this protection for self-employed laborers or mechanics, including owners of businesses, sole-proprietors, partners, corporate officers, or others.** This policy in no way precludes or limits any business or individual from participating in HUD-assisted construction, maintenance, or nonroutine maintenance work.

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The issue is not one of *eligibility*, whether such persons are permitted to work on HUD-assisted projects, but of compliance standards - what HUD will accept from contractors and subcontractors to demonstrate that proper compliance has been achieved.

In this context, this Letter establishes a HUD administrative policy **that laborers and mechanics may not certify to the payment of their own prevailing wages EXCEPT where the laborer or mechanic is the owner of a business working on the site of the work with his/her own crew.** (This exception is described in detail in Paragraph III. Owner-operators of power equipment are discussed in Paragraph IV; Truck drivers are discussed in Paragraph V.)

The most frequent occurrence of self-employed workers on HUD-assisted projects involves mechanic/trade classifications (i.e., not laborer classifications). (For ease of reference, laborers and mechanics in this context are referred to as "mechanics" and include any case involving laborers.) These mechanics may be represented as sole-proprietors, self-employed mechanics, partners, or corporate officers - all with no direct employees engaged in the covered work.

Accordingly, HUD and program participants responsible for labor standards administration and enforcement (e.g., PHAs, IHAs, **CDBG recipients**), **may not accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, a sole proprietor may not submit a payroll reporting himself or herself as simply "Owner" signing the certification as to his/her own wage payment from "draws" or other payment methods.** Neither may several mechanics submit a payroll reporting themselves as "partners" with one or more certifying as to the payment of their wages or salaried. **Such mechanics must, instead, be carried on the certified payroll of the contractor or subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services.**

In these cases, **maintenance of an accurate accounting of weekly work hours including any overtime hours for such mechanics is essential.** Whatever method of compensation computation is utilized (piecework, weekly contract draw for performance), the amount of weekly compensation divided by the actual hours of work performed for that week must result in an "effective" hourly wage rate for that week that is not less than the prevailing hourly rate for the type of work involved. This computation must take into account overtime pay rates (i.e., one and one half) for all hours worked in excess of 40 hours per

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week, pursuant to the Contract Work Hours and Safety Standards Act (CWHSSA), where applicable, and pursuant to the Fair Labor Standards Act where CWHSSA is not applicable.

The name, work classification, actual hours of work, effective hourly wage rate, and wage payment for each such mechanic must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics may fluctuate from week to week. However, the effective hourly wage rate **may not** be less than the minimum prevailing rate for the respective craft. In any case where the effective rate falls below the corresponding craft prevailing wage rate, the responsible employer must compensate the mechanic at no less than the prevailing rate on the wage determination for that craft.

III. Owners of businesses working with their crew.

Owners of businesses working with their crew on the same HUD-assisted job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards *does not* suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his/her own wages as that certification *accompanies* the certification offered for the payment of prevailing wages to his/her employees. **Such owners need only list their name, work classification including "owner," and the daily and total hours worked. (Such owners *do not* need to list a rate of pay or amounts earned.)**

IV. *Owner-operators of power equipment.*

Frequently, *owner-operators of power equipment* (e.g., backhoes, front-end loaders) will contract for services at a rate for both "man and machine." In these cases, the owner-operator includes liability, equipment maintenance, and salary in an hourly or contract rate for services. Because of the prevalence of such practice and the inherent difficulty in ascribing costs for liability and maintenance costs versus hourly *labor* salary, HUD and its program clients may accept a combined ("man and machine") hourly rate on the responsible contractor's certified payroll provided that such hourly rate may not be less than the rate on the wage determination for the respective power equipment operator.

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Note: Owner-operators of power equipment, like self-employed mechanics, MAY NOT submit their own payrolls certifying to the payment of their own wages BUT must be carried on the responsible contractor's certified payroll report.

V. *Truck drivers.*

As outlined earlier in this Letter, a DOL administrative policy **excludes *bona fide owner-operators of trucks who are independent contractors* from DBRA/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" must be reported on weekly payrolls but the payrolls do not need to show the hours worked or rates - only the notation "Owner-operator."** **Note** that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to DBRA/CWHSSA provisions in the usual manner.

This policy **does not** pertain to owner-operators of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in paragraph IV, above).

These compliance standards shall take effect immediately. Any exceptions to these standards must be approved in advance in writing by HUD Headquarters Office of Labor Relations.

- ✦ Any questions concerning this Letter may be direction to the Office Of Labor Relations at (202) 708-0370 or, in the case of HUD program participants, to the HUD Field Labor Relations Staff with jurisdiction for your area.
- ✦ Visit the Office of Labor Relations on the World Wide Web HUD Home Page

✦ Content updated March 11, 2003

✦ U. S. Department of Housing and Urban Development

✦ 451 7th Street S.W.

✦ Washington, DC 20410

Statements of Compliance

What's the Difference?

- The **MnDOT Statement of Compliance** incorporates the federal laws\statutes AND state of Minnesota statutes\rules specific to Davis-Bacon.
- It also provides for listing fringe benefits paid to each employee or a trade classification plus fringe benefit plan names, number, addresses, and phone numbers for contact information.
- The **US DOL Statement of Compliance** is a common document generate by most off-the shelf software used by many contractors.
- It is necessary for federal and HUD-CDBG funded projects.
- As the city of Duluth follows nearly all MnDOT Davis-Bacon requirements, its statement of compliance is required on ALL city of Duluth construction projects.
- The US DOL Statement of Compliance will most likely be sent with all CPRs—be certain to obtain MnDOT's as well.
 - This is noted on the project's Pre-Con Davis-Bacon agenda as well as the CPR checklist.

**MINNESOTA DEPARTMENT OF TRANSPORTATION
PRIME CONTRACTOR – SUBCONTRACTOR'S
STATEMENT OF COMPLIANCE
FEDERAL COPELAND ACT / DAVIS BACON ACT
MINNESOTA PREVAILING WAGE STATUTES**

REPORT NUMBER	STATE PROJECT NUMBERS (S)	DATE
PRIME CONTRACTOR/SUBCONTRACTOR	PHONE NUMBER	CONTRACT NUMBER
ADDRESS		FEDERAL PROJECT NUMBER
TYPE OF WORK		

(Complete as described on proposal)

STATEMENT WITH RESPECT TO COMPLIANCE AND WAGES PAID

I, _____ do hereby state:
(Name of signatory party) (Title)

- (1) That I pay or supervise the payment of the persons employed by _____ on said Contract; that during the payroll period commencing on the _____ day of _____ of the year _____, and ending the _____ day of _____ of the year _____, there were _____ workers performing covered work on said Contract. That all persons performing work under said Contract are listed on the payroll and have been paid the full prevailing wages for all hours worked under said Contract, that no rebates and/or deductions have or will be made either directly or indirectly to or on behalf of _____ (Prime Contractor or Subcontractor) from the full wages by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the U.S. Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145) and/or permissible deductions as defined in Minnesota Statutes 177.24, Subdivision 4, 181.06, and 181.79, issued by the Minnesota Commissioner of Labor and Industry and described below.

DESCRIBE LEGAL DEDUCTIONS

- (2) That the payroll submitted under said Contract is complete and accurate; that the wage rate(s) of the laborer(s), mechanic(s), and worker(s) performing work under said Contract is (are) paid according to the wage determination(s) and labor provisions incorporated in said Contract and according to applicable laws; that wages paid to laborer(s), mechanic(s), and worker(s) performing work under said Contract is at least the prevailing wage rate for the most similar classification of labor performed as defined under applicable law; and that the laborer(s), mechanic(s), and worker(s) performing work under said Contract is (are) paid for all hours in excess of the prevailing hours of labor at a rate of at least one and one-half times the applicable base rate of pay.
- (3) That any apprentices employed during said payroll period are duly registered in a bona fide apprenticeship program registered with the Minnesota Department of Labor and Industry, or are registered with the Bureau of Apprenticeship and Training; United States Department of Labor.
- (4) That: (Check one box only)

(a) **WHERE FRINGE BENEFITS ARE PAID TO ANY APPROVED PLANS, FUNDS, OR PROGRAMS**

- In addition to the basic hourly wage rates paid to each laborer, worker, or mechanic listed on said payroll, payments to current, bona fide fringe benefit programs as set forth in paragraph 4(d), have been or will be made to the program's administrators, per state and federal regulations and plan requirements, as set forth in paragraph 4(c) for the benefit of said workers, except as noted in Section 4(c).

(b) **WHERE FRINGE BENEFITS ARE PAID IN CASH TO ALL WORKERS**

- Each laborer, worker, or mechanic listed on said payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic rate plus the fringe rate as listed in the appropriate wage determination incorporated into said Contract.

NOTE--FRINGE BENEFITS SECTION C, D, E, AND SIGNATURE BLOCK IS ON PAGE 2.

This Statement of Compliance is required for ALL city of Duluth construction projects.

