

Project Name: _____

Project No.: _____

PRECONSTRUCTION CONFERENCE MINUTES

The following information has been prepared to assist Contractors and Subcontractors in meeting contractual labor standards responsibilities. The word "employer," as used below, refers to the Prime Contractor, each Subcontractor, or each Lower-tier Subcontractor.

ALL EMPLOYERS SHOULD ENSURE THE FOLLOWING STATEMENTS ARE TRUE. IF ANY STATEMENT IS NOT TRUE, THE CONTRACTOR OR HIS/HER REPRESENTATIVE SHOULD CONTACT THE PRIME CONTRACTOR WHO WILL CONTACT THE CITY OF SALEM, FEDERAL PROGRAMS DIVISION, FOR SPECIAL GUIDANCE.

1. BEFORE CONSTRUCTION BEGINS EACH EMPLOYER HAS:

- A. Documentation companies have not been debarred or otherwise made ineligible to participate in any Federally funded project (NOTE: This includes any temporary agencies or cleaning companies that may be utilized at any point of the project);
- B. Received appropriate contract provisions covering labor standards requirements ;
- C. Reviewed and understands all labor standards contract provisions;
- D. Received the wage decision as part of the contract;
- E. Requested through the City of Salem (City) and received the minimum wage for each classification working on the project which was not included on the wage decision through the additional classification process and before allowing any such trade(s) to work on the project;
- F. If laborers or mechanics not listed on the Wage Determination are needed after work begins, these procedures must be followed:
 1. Report your suggested classification and rate to the City. Supporting documents should also be submitted for Davis-Bacon rates. The City will submit your request to the Department of Labor (DOL) as long as the rate seems reasonable.
 2. Wait until DOL approves the classification and wage rate. The decision will be reported to the contracting agency in writing within a 30 day period. Once approved, it will then become part of the Wage Determination for the project.
 3. If an additional classification is needed on a HUD-determined Wage Decision, your request will be approved by HUD. When approved, it then becomes part of the Wage Determination.
 4. Should you disagree with the decision, there is an appeal process.
- G. Requested and received certification of any apprentice's certification form the State's Bureau of Apprenticeship and Training (recognized by U.S.BAT) and submitted a copy thereof to the recipient prior to employment on the project. Likewise, "trainee" program certification from U.S. BAT, if applicable, must be submitted.



2. AT CONSTRUCTION START, THE PRIME CONTRACTOR HAS:

- A. Notified the City of construction start date in writing.
- B. Has placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction):
 - 1. Wage Decision
 - 2. Notice to Employees poster (WH 1321)
 - 3. Oregon Safety and Health Protection on the Job (DOL)
- C. Before assigning work, has obtained worker's name, and best mailing address. **NOTE:** You can, for the most part, hire anyone you wish. The only exception is if contractor or subcontractor has been suspended or debarred. It is your responsibility to ensure subcontractors intended to use are eligible. Further, contracts with such subcontractors must contain a certification of eligibility clause. Where subcontractors are found to be ineligible, those subcontractors will be immediately terminated and the matter will be referred to the U.S. Department of Labor.
- D. Person under age 16 are not eligible to work on federally funded projects.
- E. Has obtained a copy of each apprentice's certificate with the apprentice's registration number, percentage of wage to be paid and his/her year of apprenticeship from the State of Oregon.
- F. Has informed each worker of:
 - 1. his/her work classification (journeyman or job title) that will appear on the payroll
 - 2. his/her duties of work on this project and if he/she is classified as either a journeyman, apprentice, or laborer
 - a) If journeyman, he/she is to be paid journeyman's minimum wage rate or more.
 - b) If apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on the year of apprenticeship, OR
 - c) If laborer, only laborer's work can be performed; any tool or tools of the trade cannot be used and no part of the journeyman's work can be performed. Laborers must be paid the laborer's minimum rate or more
- G. Understands the requirements that each laborer or mechanic who performs work on the project in more than one classification within the same work week shall be classified and paid at the highest wage rate applicable to any of the work which he performs unless the following requirements are met:
 - 1. Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification and must be signed by the worker;
 - 2. The payroll shall show the hours worked in each classification and the wage rate paid for each classification;
 - 3. The payroll shall be signed by the worker or a signed copy of the daily time record shall maintained by employer.
- H. Has informed each worker:
 - 1. of his/her hourly wages (not less than the minimum wage rate for work performed as stated in the Wage Decision);
 - 2. they will be paid at least once a week and in full;
 - 3. overtime is at the rate of time and one half for all work over 40 hours any work week (see Contract Work Hours and Safety Standards Act - CWHSSA) **NOTE:** \$10/day liquidated damages will be assessed by DOL for everyday overtime is worked for each employee, but not paid as per CWHSSA;.
 - 4. fringe benefits (see Wage Decision for fringe requirements), are to be paid in cash or into an approved third party trust (**documentation showing benefit breakdown must be submitted with first pay request**);



5. of permissible deductions from employee pay and/or any deductions voluntarily requested in writing from employee (**documentation showing benefit breakdown and employee approval must be submitted with first pay request**).
- I. has informed each worker they are subject to being interviewed by the City or designee, to confirm the employer is complying with all labor requirements. This is conducted during work hours, not during breaks or lunch or in some instances may be sent via mail.
- J. has informed each foreman, journeyman and apprentice that the proper journeyman ratio must be observed on the job site at all times when an apprentice is working

3. APPRENTICES OR TRAINEES

If an apprentice or trainee is hired and are paid less than journeyman wages, they must be enrolled, and individually registered in an apprenticeship or training program approved by the U.S. Department of Labor (or State Apprentice Council recognized by the Department of Labor's Employment and Training Administration). The terms for hiring apprentices or trainees must be set forth in the pay schedule accompanying the certificate approving the program. Employers must abide by the terms in the schedule.

An approved program will state the proportion of apprentices (or trainees) that can be hired, given the size of the whole workforce. Those ratios cannot be exceeded if the employee is paid at lower than journeyman wages.

Apprentices or trainees cannot be paid less than the percentages of journeyman wages specified for the apprentice's stage of training.

The U.S. Department of Labor will approve certain State operated apprentice and trainee programs. However, the Department of Labor has the authority to withdraw approval from State training programs. Should this occur, employers will be notified by certified letter and must then begin paying the trainees full wages required for the classification of work they do (as listed on the wage determination); **OR** appeal the decision within 30 days after receiving written notice. Employers can continue to pay reduced wages until a decision is made.

- EXCEPTION: DOL approval is not required for trainees hired as part of a program:
- Approved by the U.S. Department of Labor before August 20, 1975;
 - Established by agreement of organized labor and management; **OR**
 - Recognized by the Department of Labor under Executive Order 11246, as amended.

4. COMPLETING THE WH-38 PAYROLL FORM:

Payrolls and other documentary evidence of compliance are required to be sent to the Certified Payroll designee of the Block Grant Recipient for review (all to be submitted through the Prime Contractor). The delivery procedure is as follows:

- A. Each Lower-tier Subcontractor, after careful review, submits required documents to the respective Subcontractor.
- B. Each Subcontractor, after checking his/her own and those of each Lower-tier Subcontractor, submits required documents to the Prime Contractor.
- C. The Prime Contractor, after reviewing all payrolls and other documentation, including his/her own and correcting violations where necessary, submits all to the Certified Payroll designee of the Block Grant Recipient for review.



This form may be used by contractors for reporting payroll as required by ORS 279C.845 on public works projects subject to the Prevailing Wage Rate Law. **Although this form has not been officially approved by the USDOL, it is designed to meet the requirements of the federal Davis-Bacon Act as well.** The form contains a certified statement that is required to be signed by the contractor, certifying the accuracy of the information reported on the payroll, including representations pertaining to the provision of fringe benefits to employees by third parties. Detailed instructions concerning the preparation of the form are included with the WH-38 form included in the contractor packet.

5. OVERTIME

Time and a half means one and one-half times the base hourly rate you pay in wages (in cash or in-kind) plus fringe benefits. There are strict penalties for failing to pay overtime when it is due. These penalties will be explained before this meeting is complete.

6. WHEN FRINGE BENEFITS MUST BE PAID

If the Wage Determination lists fringe benefits, employers must either provide them through a bona fide benefit program or pay the hourly equivalent in cash or a combination. All fringe benefits specified in the Wage Determination must be paid IN ADDITION to the predetermined basic wage.

The part provided in benefits must...

- Be explained to all employees in writing and documents be provided with first certified payroll.
- Be administered through a third party or through a sound, enforceable, unfunded commitment. (The Secretary of Labor may require unfunded plans to be held in a separate, special account).

Any Department of Labor decision to add, delete, or modify fringe benefits must be attached to the next payroll and sent to the City.

7. DURING CONSTRUCTION:

A. Each employer:

1. has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, not dismissed any project worker because of race, disability, color, religion, sexual orientation, gender identity, source of income, or national origin;
2. has employed all registered apprentices referred through normal channels up to the applicable ratio of apprentices to journeyman in each trade used by the employer;
3. will maintain basic employment records accessible to inspection by the City and HUD representatives as requested;
4. is complying with all health and safety standards;
5. has paid all workers weekly;
6. has submitted weekly payrolls prepared on the WH-38 form.

HUD considers the following project workers exempt from labor requirements and does not require them shown on payrolls: **project superintendents, project engineers, supervisory foreman (performing less than 20% in a classification), messengers, clerical workers.**

8. EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS

Equal Employment Opportunity. The utilization of Apprentices, trainees and journeyman under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and Title 29, Code of Federal Regulations, Part 30. NOTE: This provision is enforced by the U.S. Department of Labor.

9. WHAT DOES HUD DO TO ASSURE COMPLIANCE?

Federal regulations require HUD or its designee to monitor your compliance with Federal Labor Standards. The Department uses a variety of means to assure compliance, including:

Conducting Spot Checks. During spot checks, you must permit compliance personnel to:

- Interview employees at the work site during their work hours
- Take written statements from employees
- Document observations
- Examine your payroll records
- Examine your records relating to...
 - Fringe benefits
 - Apprentice registration
 - Trainee certification
 - Contracts
 - Time logs

Investigating Complaints. During such investigations, you must permit compliance personnel to perform tasks involved in spot checks so that the facts can be established. These Federal Officers, or their designees, are obliged to report the facts objectively. These officers cannot reveal to you, without a written release...

- The complainant's identity
- All or part of a written statement

REMEMBER: Federal Officers, or their designees, are not to be interfered with. Authority to require this is published in Title 29, Code of Federal Regulations, Part 5

10. UNDERPAYMENT OF WORKERS

If a contractor or subcontractor underpays laborers or mechanics, HUD will notify the Prime Contractor in writing. (Remember, the Prime Contractor is responsible for seeing to it that all subcontractors comply with these contract provisions).

All subcontracts made by the contractor (or by subcontractors with lower-tier subcontractors) are subject to these provisions. Each contractor and subcontractor is responsible for inserting these clauses into all contracts involving this project if laborers or mechanics will perform work. Incorporation by reference is not permitted.

The Prime Contractor is...

- Responsible for the correctness and timely submission of all subcontractor's payrolls; **AND**
- Liable for violations or underpayments to workers by subcontractors



Contractors should collect, review and forward subcontractor's payrolls, since failure to submit payrolls promptly, preferably within 7 days after the close of a work week, is a violation. If payrolls are not submitted on time, the City may withhold advances, draws or final payouts until all payrolls are received.

If you or your subcontractors seriously violate any of these labor standards, the City can...

- * Delay payment of money owed to you, the Prime Contractor;
- * Set aside or disburse, from money owed to you, the amounts needed to pay:
 - Wages or fringe benefits
 - Uncompensated overtime
 - Liquidated damages
- * Terminate the contract
- * Initiate criminal proceedings
- * Debar you from working on similar projects for up to one year
- * Debar you from working on any Federal projects for up to three years
- * Assess liquidated damages (unless violations were inadvertent)

You have the right to appeal such decisions.

I have received a copy of these minutes and agree to abide by the requirements outlined.

Contractor Name

Date

Company Name

