

# **Chapter 6**

## **WAGES AND PAYROLLS**

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## Section 6.1

### GENERAL INFORMATION

#### 6.1.1 Purpose

Contractors that perform work on Davis-Bacon Act (DBA) covered projects must pay wages in accordance with those predetermined by the Secretary of the United States Department of Labor (USDOL). This section of the workbook offers guidance and information surrounding the requirements of payment of predetermined wages, record keeping and overtime requirements. Contracting agencies must monitor and keep records of payments to employees as required by law.

Additionally, this section provides a uniform process for reviewing and processing Contractor payroll submittals, conducting labor interviews, issuing violations and adding wage classifications to the contract. Included is information concerning other labor laws and regulations which may be applicable.

#### 6.1.2 Scope

Contract wage requirements are set forth in every federally funded project the Department awards that is \$2,000 or above. Coverage requirements apply to all levels (tiers) of subcontracts, regardless of the amount of the subcontract. The “government contract acts” (Davis-Bacon Act, the Copeland Act and the Contract Work Hours and Safety Standards Act) regulate: payment of wages, record keeping, and overtime pay respectively on these contracts.

Non-Federally funded projects are governed by the Fair Labor Standards Act (FLSA) which requires minimum wage (currently \$5.15 per hour), overtime pay and child labor standards be met. FLSA is enforced directly by the USDOL, whereas the “government contract acts” above are enforced on a day-to-day basis by the contracting agency.

\* As of May 2, 2005 Florida’s new minimum wage law went into effect. The initial minimum wage was set at \$6.15 per hour and will include annual cost of living increases. As of January 1, 2006 this minimum will increase to \$6.40 per hour. This law applies to all FDOT construction projects Federal funded or State funded. In the case that the Florida minimum wage is higher than a required DBA wage, the Florida minimum must be paid. Payroll violations will not be written for violation of the Florida minimum wage law, however the contractor will receive a written warning regarding the infraction. As part of all contracts, Specification 7-1.1 requires the contractor become familiar with and comply with all Federal, State, county, and city laws, regulations, etc.

Documents contained in DBA covered contracts include Form FHWA 1273 and also the General Wage Determination number(s), assigned to the contract. Guidance for

FDOT's in house procedures for monitoring this area of compliance is contained in the latest version of the Construction Project Administration Manual (CPAM).

### **6.1.3 Requirements**

The following elements comprise the contractor's responsibility involving wage compliance:

**Payment of Wages** – Contractors are required to pay their respective employees who are “laborers or mechanics” no less than the minimum prescribed in the General Wage Determination(s) (WD's) assigned to the contract. Fringe benefits payment requirements may also be included in these WD's. The prime contractor, as outlined in 6.3 Requesting Additional Wage Classifications, must request classifications of work not covered by these WD's.

**Record keeping** – Contractors must submit weekly-certified payrolls and statements of compliance as required. Payrolls and basic records relating thereto shall be maintained by the Contractor/subcontractor during the course of the work and preserved as required.

**Overtime payments** – All overtime hours (all those over 40 in a workweek) shall be paid at rates no less than 1.5 times the employee's basic rate of pay. Contractors are required to pay “laborers or mechanics” for any hours over 40 in a workweek.

## Section 6.2

### General Wage Determinations

#### 6.2.1 Purpose

General Wage Determinations (also known as wage tables, wage decisions, or WD's) are the document(s), which contain predetermined wages set by USDOL. They may or may not contain fringe benefits in addition to the basic rates of pay for individual classifications. Once assigned to a contract, this WD(s) will not change for the life of the contract, unless major changes happen to the scope of the contract work. The most current version (modification) of the wage table(s) specified in the contract specifications is "locked in" at a date 10 days before the letting date. This is known as the "10 day rule". For example, if a wage table is modified by USDOL with a publication date that is 10 calendar days before the letting date for the project, then that is the correct version to use. If it is modified with a publication date 9 calendar days or less, before the letting, then the previous version would be used.

#### 6.2.2 Types of Wage Determinations

Wage Determinations will carry a title, which identifies the state, year and number of the WD.

For example:

"General Wage Decision Number FL020001". FL – state, 02 – year and 0001 is the number signifying the area the table is effective and the type of construction that it covers. In this case 0001 is Building Construction for Dade County.

There are four (4) major types of construction addressed on these WD's. They are:

**Highway** – this is used for most of FDOT's projects. It includes the construction of roads, small bridges, bridges not over commercially navigable waterways, taxiways in airports, parking lots which are not incidental to building construction, and storm sewers/drainage work which are incidental to road construction.

**Heavy** – this category is one of a "catch all" nature. It includes those types, which are not covered by the other three categories. FDOT projects, which contain these, are mostly large marine bridges over commercially navigable waterways and sewage treatment plants for rest areas. Other examples of this type of construction are dams, powerhouses, railroad construction, tunnels and others.

**Building** – covers most any building structure except those that are residential in nature that are 4 stories or less.

**Residential** – includes construction of all single family or apartment buildings designed which are not over 4 stories high.

Note that in the above definitions, the examples given for the types of construction are only some of the examples given by USDOL. Sometimes when other types of construction are encountered, a decision is required by USDOL to determine the proper wage table(s) for the project.

If there is any doubt as to the applicability of any wage determination, the District Contract Compliance Manager and the Prevailing Wage Rate Coordinator (PWRC) should be contacted. If necessary the PWRC will contact USDOL for guidance.

### **6.2.3 Requirements**

Requirements for the contractor include posting of the correct WD(s) (and any classifications added by the request procedure) on the job site bulletin board. A copy of the appropriate table(s) shall be obtained from the Department's website.

Workers shall be paid according to the duties they perform. If the worker is involved in multiple classifications during a workweek, the contractor can either pay all the hours at the rate of the highest paid classification or separately document the hours spent in each classification and pay them as such.

When the WD requires fringe benefits, the contractor may pay the basic hourly rate in cash and provide bona fide fringe benefits in the amount required or pay the sum of the basic hourly rate plus the fringe benefit in cash. Examples of this are:

In the wage table a basic hourly rate of \$10.00 per hour plus an hourly fringe benefit of \$2.00 is required. This requirement could be satisfied by either paying \$12.00 per hour in cash or by paying the \$10.00 per hour in cash and providing \$2.00 per hour in bona fide fringe benefits.

If the WD requires fringe benefits, employees working overtime hours earn 1.5 of the hourly rate and 1.0 of the fringes. In no event shall overtime be paid on an amount less than the basic hourly rate stated in the wage table.

## Section 6.3

### Requesting Additional Wage Classifications

#### 6.3.1 Purpose

Requesting an additional wage classification is the process, which allows a classification to be added to a Wage Determination (wage table) on a project-by-project basis. USDOL refers to this request as a 'conformance'.

When a classification is approved it is only valid for the particular project on which it was requested. Blanket coverage to other projects is not allowed by the present regulations.

Requesting additional wage classifications is a process which is required when the wage table(s) assigned to a project, does not include classifications needed to perform the project's work.

#### 6.3.2 Requirements and Process

**\*Note:** the Department is moving towards electronic means of transmittal of the documents involved in this process. Until the process is fully implemented, some response documents may still be sent as hard copy from the Central Office.

It is the prime contractor's responsibility to submit additional classification requests for their firm and all subcontractors on the project. Form No. 700-010-07, Additional Classification-Request Form is provided for this purpose. Contractors may recreate this form to expedite filling out required information and making it compatible to email. The file may be MS Excel, MS Word, or an Adobe PDF. However, all information and general appearance of the form must be similar. All signatures must be handwritten or be a handwritten signature scanned and inserted into the document. Example: using a typewritten electronic script font in place of a handwritten signature is not acceptable.

The prime contractor faxes (or scans and emails) the form to the PWRC (Prevailing Wage Rate Coordinator) and faxes/scans a copy to the project Resident Compliance Specialist. The prime contractor shall keep the original request in their files.

The PWRC evaluates the request and issues a letter to the contractor and copies the DCCM (District Contract Compliance Manager) advising whether or not the State Construction Office agrees with the submitted request. The request, the PWRC's letter and the WD(s) for the project are submitted to USDOL for a decision.

Upon receiving approval by the USDOL, the PWRC sends a letter noting approval to the contractor.

Should the USDOL disagree with the request as submitted, a copy of their written response is sent to the contractor and the DCCM along with a letter from the PWRC. The DCCM is responsible for forwarding a copy of this transmittal to the project's Resident Compliance Specialist.

Note: copies of USDOL's response letter are only sent out to contractor and DCCM when there is a denial or modification to the original request.

It is the contractor's responsibility to post any added wage classifications and rates on the project. The Additional Federal Wage Rate Decisions Form No. 700-010-67 is provided to make posting this information on the project bulletin board easier. The final approval letter issued by the PWRC (and the copy of the USDOL response letter if applicable) for each classification must be kept by the contractor in his/her project files for verification of those posted rates.

Compliance personnel may track the progress of a request in the Wage Rate System, which is presently a part of CARS Option 5. This is an internal FDOT system. Access to this system, must be requested from the State Construction Office, System Support Section. RCS access should be coordinated through the District Compliance Office.

### **6.3.3 The Additional Classification – Request Form**

The Additional Classification – Request Form is provided for use by the contractor. The prime contractor shall submit the form when the work of a craft is required but that craft is not included in the Federal Wage Rate Table(s) that is assigned to the contract.

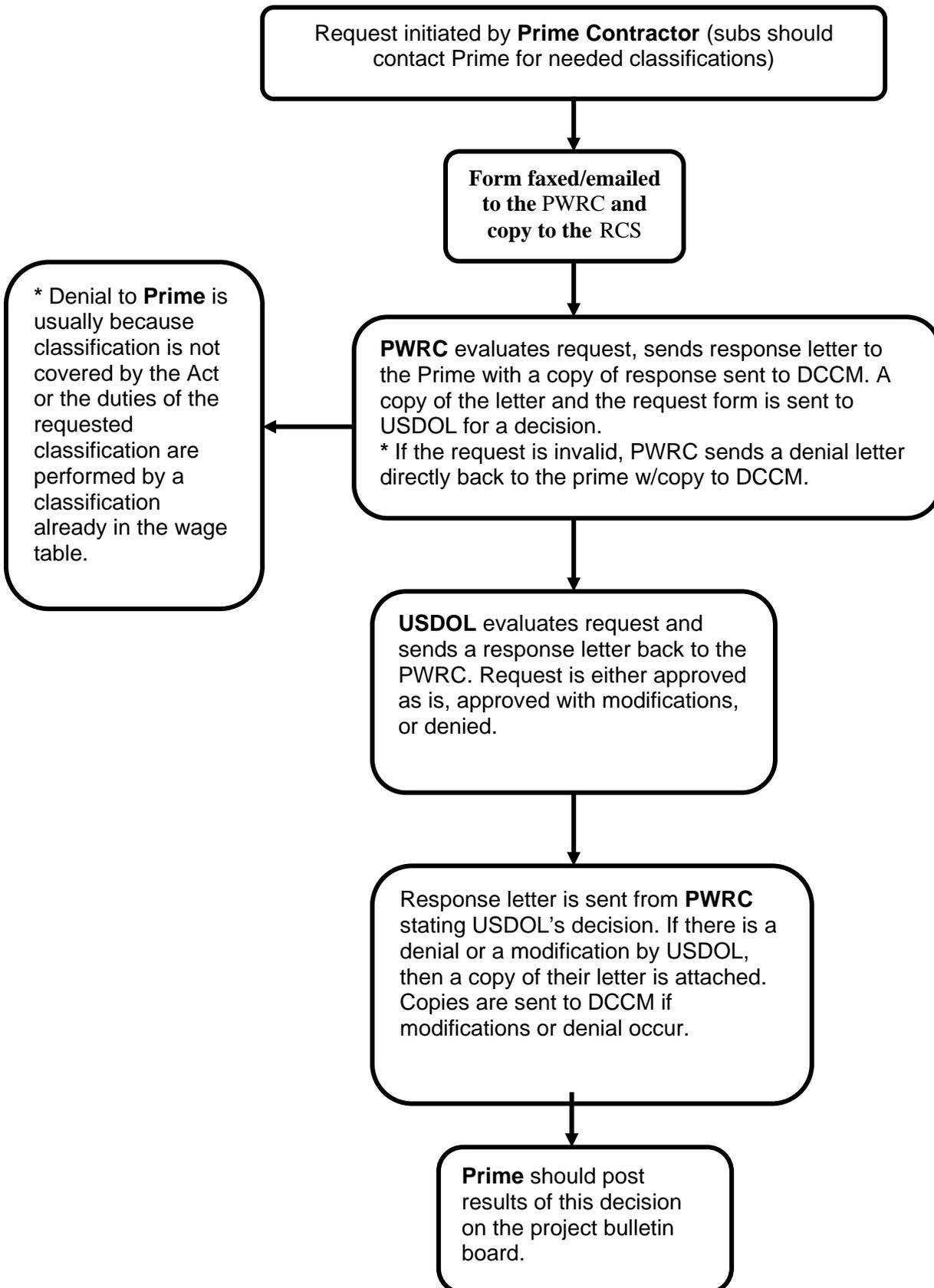
### **6.3.4 Directions for Completing the Additional Classification – Request Form (Form No. 700-010-07)**

The completed form should contain all contractor information, including address, phone number etc., project information, WD that classification(s) are being requested on, the classification(s) title, the actual job duties that will be performed, a suggested minimum amount that the contractor will pay these employees and the name of the contractor's representative signed and printed clearly.

Special care should be taken to ensure that the project's correct wage decision (WD) number and modification date are shown on the form. If a project has more than one WD, the form should indicate which table the additional classification pertains to. Do not combine requests for classifications on more than one table on the same form. Example: if a Carpenter is being requested for two different tables on the same project, then a form for each should be completed.

Forms that are not properly filled out or are incomplete will be returned.

## Flow Chart for Requesting Additional Classifications



## Section 6.4

### Employee Labor/EEO Interviews

#### 6.4.1 Purpose

To fulfill the contracting agencies' requirement to monitor payments made on Federal Aid Construction projects, the FDOT has developed procedures for interviewing employees for proper classification, wage payment, and Equal Employment Opportunity purposes.

#### 6.4.2 Overview

The Employee Interview Report Labor/EEO Compliance, (Form No. 700-010-63), is provided to document interview results of a cross section of employees based on the dollar amount of the contract. Interviews are conducted monthly on a random basis and seek to interview a wide range of laborers and mechanics for labor and EEO. "Laborers and mechanics" is a general term used to mean all construction employees on the project performing labor or craft work as opposed to managerial or technical work. Note: For EEO purposes, other personnel such as foremen working on the project should be interviewed.

#### 6.4.3 Requirements & Responsibilities

Requirements for this area are mainly those of the FDOT personnel and their representatives. The procedures for such are located in CPAM Chapter 5.4 "Contract Wage Requirements".

As outlined below and in the CPAM, interviews shall be conducted monthly. A cross section of all employees should be interviewed. Examples of this would be minorities, non-minorities, skilled, unskilled, trainees and foremen.

This interview report shall be kept in a separate confidential file and not with the rest of the project files. It should be stressed that these interview forms be kept in strict confidence to the extent permitted by law.

**Prime Contractor Level Responsibilities:** Contractors and subcontractors are required to allow interviewing of their employees on the project during working hours.

**Resident Level Responsibilities:** The Resident's Office shall conduct the number of required Labor/EEO interviews based on the dollar amount of the contract as follows:

Original Contract Amount	Minimum Number of Interviews per Month
Under \$ 1,000,000	2
Over \$1,000,000 - \$3,000,000	3
Over \$3,000,000 - \$5,000,000	4
Over \$5,000,000 - \$10,000,000	5
Over \$10,000,000 - \$15,000,000	6
Over \$15,000,000 - \$20,000,000	7
Over \$20,000,000	8

In those instances when the interviewer has a reasonable basis to believe the contractor and/or subcontractor may not be in compliance with the provisions of the **Davis-Bacon Act**, a copy of the employee's paycheck or other verification of payment made shall be secured and the pay rate checked against certified payroll. Additional interviews (above the minimum numbers shown in the chart) may be conducted when deemed necessary.

The date and action(s) taken to resolve any discrepancies or violations, determined as a result of the interview, shall be indicated in the space provided on the report. The employee being interviewed must sign the report.

#### 6.4.4 Direction for Completing the Employee Interview Report Labor/EEO Compliance (Form No. 700-010-63)

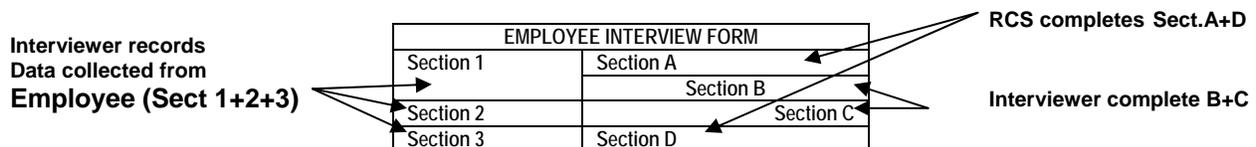
Instructions for Completing Form

### Employee Interview Form 700-010-63

#### GENERAL

**Data is collected by observing and communicating with project workers and it is recorded on this form to assist in determining EEO and payroll compliance.**

On the left side (Sections 1, 2, and 3) the Interviewer records data collected from the employee  
 On the right side (Sections A, B, C and D) data is recorded by the Resident Compliance Specialist (RCS) and Interviewer



Information recorded on the Employee Interview Form is to be kept confidential and separate from standard Compliance program records.

**DIRECTIONS FOR COMPLETING FORM**

**Section A- PROJECT IDENTITY SUPPLIED BY RCS**

The RCS completes this section before giving the form to the Interviewer. Note that these items can be filled in on the computer when the form is downloaded

- A. Financial Project No. – The Florida Department of Transportation's Financial Project Number
- B. F.A.P. Number – The Federal Aid Project Number assigned to federally funded projects
- C. Prime Contractor- Name of Prime

**Section B-INTERVIEWER'S IDENTIFICATION**

This is the first section that the Interviewer completes

- D. Interviewer's Name
- E. Interviewers' Employee: FDOT or the main CCEI firm on the project
- F. Date of interview: Month/Day /year

**Section C-INTERVIEWER'S OBSERVATION**

The Interviewer completes this section before speaking with the employee and before performing the interview. The data provided is based on what the interviewer observes just prior to the interview

- G. Describe the work at the time of the interview (e.g. digging trench for placement of pipe)
- H. Name hand tools the employee was using: OR mark 'No tools' if none used. Include motorized and manual tools.
- I. Name equipment the employee was operation: OR mark 'No Equip' if none operated. Name the specific piece of equipment
- J. What is the proper classification for this work? The interviewer's opinion as to correct classification; use proper classification names like those found on Wage Tables.

**Optional 2<sup>nd</sup> Observation Same Day.** A second observation of the employee's work during the day of the interview is helpful. If one cannot be done, mark '2nd Observ Not Done'

- K. Was 2<sup>nd</sup> observation of work, tools & equipment same as previous? Mark yes or No. If YES, continue with question L, M, N, and O. If no, go to Section 1.
- L. Describe employee's work at the time of second observation e.g. digging trench for placement of pipe)
- M. Tools used OR mark 'No tools' if none used
- N. Equipment Operated? OR mark 'No Equip' if none operated
- O. What is the proper classification for this work? The interviewer's opinion as to correct classification; use  
Proper classification names as found on Wage Tables.

**Section 1- IDENTITY DATA SUPPLIED BY EMPLOYEE**

The interviewer records the answers supplied by the employee

- 1. Employee: Print First and last name & have employee sign below their name.
- 2. Employed by: name of the contractor or temporary agency the employee is working for.
- 3. Social Security No.: Employee's full social security number or Last 4 digits of social security number
- 4. How long with Company? Months and/or years employee has worked for company
- 5. How long on this project? Months and or years employee has worked on this project.
- 6. Employee Sex: Record male or female based on observation
- 7. Employee Race: Record the race which the employee identifies with

### **Section 2- JOB & PAY DATA SUPPLIED BY EMPLOYEE**

The interviewer records the answers supplied by the employee

8. Describe the work you have done today? Employee's statement of work performed
9. What tools have you used today? Employee's statement of tools used
10. What equipment have you operated today? Employee's statement of equipment used.
11. What is your job classification? Employee's statement of their job title/class
12. What is your hourly pay rate? Employee's statement of their hourly pay rate(s)
13. How often are you paid? Employee's statement of pay frequency (e.g. each week, every Friday, etc)

<b>QUESTIONS 14-23 ARE YES/NO; THE INTERVIEWER EXPLAINS ALL 'NO' ANSWERS IN LINE 24</b>
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14. Are you paid time and half for hours worked over 40 in a week?
15. Was your first hardhat, vest, gloves, etc (safety equipment) given free with no charge to you?
16. Are there deductions from your check other than taxes?
17. Did you pay someone to get this job/ do you pay anyone to keep it?

### **Section 3- EEO DATA SUPPLIED BY EMPLOYEE**

The interviewer records the answers supplied by the employee.

18. Are all company buildings and services open to all employees regardless of race or sex? Determine if the employee's  
Sex or race prevents use of services or results in separate segregated facilities.
19. Are you treated fairly without regard for your race or sex? Determine if discriminatory treatment is occurring
20. Have you been informed of your company's EEO Policy?
21. Do you know who your Company's EEO Officer is?
22. Have you seen wage & employment posters on this job site?
23. Have you been asked to refer minorities and females for employment?
24. Explain all 'no' answers

The interviewer's work is now complete and the form should be turned into the Resident Compliance Specialist

### **Section D-RCS'S REVIEW AND ACTION**

The RCS completes this section once the certified payroll for the date of the interview is received.

- P. RCS' first and last name and signature
- Q. RCS' employer. Name of lead CEI firm, or FDOT Residency
- R. Date of RCS' Review: month/day/year
- S. Payroll Entry: as shown on certified payroll for the date of the interview: Classification and hourly rate. Indicate the minimum  
For that classification as shown on the Prevailing Wage Table used on the project
- T. Is there a classification or pay discrepancy? The RCS compares observation data in Section C with employee Supplied data in Section 2 and the Certified Payroll to identify discrepancies.
- U. Are any deficiencies in pay administration, EEO or other areas evident as a result of the answers the employee provide in Sections 2 and 3
- V. the RCS explains Yes answers to T or U and states what action, if any is being taken

## Section 6.5

### Payrolls, Fringe Benefits and Overtime

#### 6.5.1 Purpose and Overview

On Federal aid construction projects, certified payrolls are necessary to meet the requirements of the Copeland Act as a means of ensuring and documenting that laborers and mechanics are paid according to the WD(s) assigned to the contract. Fringe benefits are included in some WD's when they are found to prevail in an area and type of construction in a wage survey. They were added to the Davis Bacon Act requirements in 1964. Overtime is required by CWHSSA or FLSA as discussed previously in General Information Section 6.1.2 Scope. Overtime is the payment of 1.5 times the basic rate of pay for any hours worked in a workweek over 40.

#### 6.5.2 Payroll Requirements

**Contractor Responsibilities:** Each Contractor/subcontractor shall furnish an original certified payroll, for wages paid each of its employees to the Resident Engineer (including apprentices, trainees, watchmen and guards engaged in work during the preceding weekly payroll period), each week in which any contract work is performed. The payrolls submitted shall set out accurately and completely all of the information required. All payroll records submitted shall contain the name, social security number, and address of each employee, correct classification, an hourly rate of wages paid (as set forth in **CFR 29, Part 1.6 (2) (b)**, daily and weekly number of hours worked, gross wages on the project (and those of all projects), deduction(s) made, and actual net wages paid. All employee deductions must be shown on each payroll, or submitted on supplemental data attached to the payroll, specifying the purpose and amount of each deduction. See Section 6.5.5 for instructions.

The prime Contractor is responsible for the submission of original certified payrolls by all subcontractors. The payrolls are due within (7) seven days of the regular payment date of the payroll.

Additionally, payrolls will include race and sex. See the following table (6.5.2) for categories and abbreviations.

<b>Table 6.5.2 Race and Sex Abbreviations</b>	
<b>Sex &amp; Race Categories</b>	<b>Phrases for FDOT Reporting Purposes</b>
Male	Male M
Female	Female F Fem
White	White W Wh
Black	Black B Bl
Hispanic	Hispanic H Hisp
American Indian or Alaskan Native	American Indian or Alaskan Native, AI-AN Amer Ind -Ala Nat
Asian or Pacific Islander	Asian or Pacific Islander, As-PI As-Pac Isl

**Resident Level Responsibilities:** Payrolls shall be checked for completeness and accuracy. Whiteouts are not acceptable on payrolls. Corrections may be struck through and initialed by the person filling out the payroll. Though it is not possible to check every entry on every payroll, the following minimums shall be adhered to for guidelines and additional checks may be required if deemed necessary. The first payroll each Contractor/subcontractor submits on the project shall be checked completely for, but not limited to errors, omissions, misclassifications, unauthorized deductions, or inadequate pay. Thereafter, spot checks shall be made at no less than 1 in every 10 entries on payrolls.

**District Level Responsibilities:** Upon satisfaction by the Resident Compliance Specialist of the accuracy of payrolls submitted by an individual Contractor, minimum checking requirements may be lessened with the approval of the District Contract Compliance Manager or their designated representative.

### 6.5.3 Fringe Benefits

The payment of fringe benefits is required when shown in the WD or is included by means of an additional classification request. A contractor can meet this requirement several ways. The payment may be made in cash by combining the required hourly rate

of pay plus the required fringe benefit amount or by paying the hourly rate plus providing bonafide fringe benefits to the employee in the amounts shown. These are but some of the fringe benefits, which are allowed by law: life insurance, health insurance, pension, vacation, holidays and sick leave. No credit may be taken for any deduction required by law. Some examples of these include taxes, court ordered garnishment or child support payments, worker's compensation, unemployment compensation, or social security contributions.

#### **6.5.4 Deductions**

Generally administration fees, interest, or any profit taken on deductions, is not allowed. Employee loans with a bona fide third party (such as a credit union, profit sharing trust fund, etc) are exempt from that requirement. In short, the contractor may not benefit financially from the loan of money to an employee nor may they impose an administrative fee.

Child support or other court mandated deductions may allow the contractor to deduct an administrative fee, but only if specified in the order.

Uniform Rental Deductions: These deductions must be approved by the Department of Labor. A copy of the deduction approval letter shall be sent to the Prevailing Wage Rate Coordinator for input into the BIZTRAK system.

Garnishment: No authorization is required to be in the payroll files for Court Ordered Garnishment.

Loans/Pay Advances: Any loan or pay advance to employees by the contractor/subcontractor requires a signed authorization by the employee for the deductions. The authorization should include the amount of the loan/advance, the beginning and completion date of the deduction and the weekly deduction amount. A new deduction requires a separate authorization.

**Computer generated payrolls** should follow the guidelines outlined for Form **No. 700-010-69** as previously stated herein.

Authorized Deductions requiring no additional documentation:  
**(See 29CFR Part 3 Section 3.5 for further detail of deductions.)**

- a. State or Federal Withholding Income Taxes
- b. Social Security Tax
- c. Hard Hats and other safety equipment if not required by law to be furnished by the employer.

- d. Amount required by a court order
- e. Hospitalization Insurance Plans (Health Insurance)
- f. Pension Funds
- g. Credit Union (Automatic Payroll Deposits)
- h. Vacation Funds
- i. Christmas Club Plans
- j. Retirement Plans
- k. Group Life Insurance Plans
- l. U. S. Savings Bonds
- m. Red Cross
- n. United Way Fund and similar charitable organizations
- o. Union Initiation Fees and Dues
- p. Reasonable Cost of Board and Lodging

**Address and Contact person for applying to USDOL for deductions approval (pursuant to 29CFR Part 3.6):**

U.S. Dept. of Labor  
Employment Standards Administration  
Wage & Hour Division  
Office of Enforcement Policy - Rm. # S3018  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
Attn: Mr. Timothy J. Helm, Government Contracts Team

\* **Note:** Following is some sample language that contractors should include in submitting such requests, assuming of course that the firm meets all of these provisions. In addition, if the contractor has received a previous approval letter, enclosing a copy of that letter helps to expedite their request.

(Name of Contractor) affirms that it complies with the provisions as set forth in Department of Labor Regulations, 29 CFR Part 3.6. These requirements are: (1) the contractor or any affiliated person does not make a profit or benefit directly or indirectly from the deduction, (2) the deduction is not otherwise prohibited by law, (3) the deduction is voluntarily consented to by the employee in writing and such consent is not a condition of employment or the deduction is provided for in a bonafide collective bargaining agreement, and (4) the deduction serves the convenience and interest of the employee.

Permission requests for cell phones and use of company vehicles deductions generally do not meet the requirements of part 3.6. Anyone submitting a request for items such as these should provide additional information to address their compliance with the requirements in part 3.6. USDOL tries to respond to these requests within 30 days.

### **6.5.5 Overtime**

Overtime is the payment of 1.5 times the basic rate of pay for any hours worked in a workweek over 40. In addition to OT requirements for DBA covered employees; there is also a requirement for OT pay for night watchmen and guards.

Payment of overtime is required for covered employees on federally funded projects over \$100,000 by the Contract Work Hours and Safety Standards Act. Those federally funded projects under \$100,000, as well as state funded projects, have overtime requirements for covered employees under the Fair Labor Standards Act.

### **6.5.6 Additional Aids**

When an employee works in more than one classification during a work week, (Payroll period), the payroll may reflect the classification and pay rate of only the highest classification and rate ( as specified in the contract wage table) provided the employee is paid at that higher rate for all work performed..

Semi skilled is an EEO Category and not a job classification. Refer to Table 3.4.1 for specific semi-skilled job classifications which must be shown on the payroll.

The payroll record of a person working as a welder is to include the designation of the operation in which welding is incidental (example: Welder-reinforcing iron worker)

If an ‘Additional Wage Classification’ has been requested, but a response has not been received, the contractor may include the Additional Classification on the certified payroll and pay at least the minimum amount indicated in their request. Once the wage decision of the US Department of Labor has been received, the contractor must retroactively make any pay adjustments if the rate other than the requested one is given. In the event the wage decision indicates that the work is included in that of an existing classification, the contractor is to begin immediately using the indicated classification and must retroactively pay any difference in rate resulting from this decision.

Working foreman are those employees who, while having some supervisory duties, also engage in “hands-on” construction craft and laborer work. The time that a working foreman expends in the construction craft or laborer work is subject to the Davis-Bacon Act provisions provided (1) the employee does not qualify as an exempt executive (as defined in Part 541 of 29 CFR) and (2) twenty percent or more of the pay period involves construction craft and laborer work. The payroll record of a working foreman includes the designation of Foreman plus the craft or laborer classification worked in (example “Foreman-Carpenter”).

### 6.5.7 Directions for Completing the Payroll Form (No. 700-010-69)

Payroll Form (No. 700-010-69) may be used or the contractor can use his or her own form, provided all information requested on the standard form is supplied. This information includes employee's full name and social security number, address, employee's classification(s), hourly wage rate(s) paid and where applicable overtime rate, the daily and weekly hours worked, the itemized deductions made and the net wages paid. FDOT is now requiring race and sex be recorded on payrolls for EEO purposes. Specific directions for completing the form are as follows:

- Column 1. All payroll records submitted shall contain: **Name, address, social security number, correct classification, and hourly rate of wages paid, daily and weekly number of hours worked, gross wages, deduction(s) made, and actual net wages paid.**
- Column 2. This column is for **withholding exemptions.**
- Column 3. **Classification:** Be sure the classification is recorded exactly as it appears on the Federal Wage Rate Table(s) or an Additional Wage Rate Request for the specific project. Semi-skilled laborer, helper, or operator (without designation of which type) cannot be used.
- Column 4. **Hours Worked**
- Column 5. **Total Hours Worked on FDOT Project**
- Column 6. **Rate Paid** - Check the rate paid for the work classification against the federal wage rate table for the specific contract. (Remember Trainees, **while training, may** be paid at the Unskilled Labor wage rate instead of the wage rate of the classification for which they are training in).
- Column 7. **Gross Amount Earned.** Enter a slash to show gross amount for \$'s made on the FDOT project above the line and total gross \$'s for all projects worked below the line.



- Column 8. **Deductions:** Deductions other than FICA or withholding taxes **must be** identified. The amount of each and every deduction shall be listed along with its description, including those not requiring USDOL authorization. (See Deductions Section 6.5.4).

### 6.5.8 Statements of Compliance

**Prime Contractor Level Responsibilities:** Each payroll submitted shall be accompanied by a **Payroll Form No. 700-010-69** (or an equivalent document containing all required information), with original signatures of the Contractor or subcontractor, or his/her agent who pays or supervises the payment of the persons employed under the contract, and must certify the following:

- (1) That the payroll for the pay period contains the information required and that such information is correct and complete.
- (2) That such laborer(s) or mechanic(s) (including apprentice and trainee) employed on the contract during the payroll period have been paid the full wages earned and that no deductions, directly or indirectly have been made other than those permissible.
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage rate determination incorporated into the contract.
- (4) That the Contractor or subcontractor shall make the required records available for inspection, copying or transcription by authorized representatives of the Department, the FHWA and the US Department of Labor.

**Resident Level Responsibilities:** CPAM (FDOT Procedure No. 700-000-000), Section 5.4 Contract Wage Requirements, gives FDOT personnel the specific requirements for payroll related issues. This includes checking of payrolls, monitoring minimum and overtime payment violations, and issuing non-compliance notices. The Resident Compliance Specialist will monitor all contractors compliance with the prime contractor level responsibilities listed above.

Contractors/subcontractors working on Federal Aid Projects shall be furnished an original **Payroll Form No. 700-010-69** or directed to retrieve the form from the Department's Forms Library. From the time the Contractor/subcontractor begins work, they are required to submit payrolls to the Resident Engineer with respect to the wages paid each employee.

Payrolls are required on a weekly basis from all contractors working on a Davis-Bacon Act covered project, when work is performed. They are due, within 7 days of the regular payment date of the payroll period, in the Resident Engineer's Office along with the Statement of Compliance. Notifications of non-compliance are issued for payrolls, which have errors, and are not consistent with interview reports or show inadequate payment of employees.

**District Level Responsibilities:** Ensure compliance by Contractor and Resident Level personnel with contract wage requirements.

## Section 6.6

### Notification of Payroll Violation

#### 6.6.1 Purpose

A **Notification of Payroll Violation (previously known as the Notification of Noncompliance), Form No. 700-010-59**, detailing the type of violation and requesting correction or clarification is issued when it is determined that certified payrolls contain errors, or that required wage/payroll information is omitted or erroneous. Phone calls shall not be placed in lieu of issuance of this form. The violation shall be recorded in the CARS system (Construction Automated Reporting System).

#### 6.6.2 Requirements and Responsibilities

**Prime Contractor Level Responsibilities:** The prime Contractor is responsible for obtaining and forwarding to the Resident Compliance Specialist, all documentation and records required to satisfactorily resolve all noncompliance notices, including all Code 1 violations issued for contract work performed by their subcontractors or under rental agreement.

If a noncompliance notice is issued and the violation indicated is a code 3, 4, or 5, the Contractor must furnish to the Resident Engineer's Office within 20 days, an original certified supplemental payroll showing the payment restitution along with proof of payment made and received by the employee.

An instance where employees of a contractor cannot be contacted does not relieve the contractor of the responsibility of payment. In those cases, payment in the amount of that owed the employee must be sent to the proper Federal Agency. Contact the Prevailing Wage Rate Coordinator for the current contract and address.

If a violation identifies a Code 6, the Contractor must furnish an original certified supplemental payroll to the Resident Compliance Specialist within (20) twenty days and the disposition of the violation will be the same as specified above for Code 3, 4, and 5. If the violation identified is a Code 7, the corrective action, documentation and time restraints afforded for corrective action shall be specified

**Resident Level Responsibilities:** Labor regulation compliance should be outlined at the pre-construction or post-preconstruction conference. The requirements as related to submittal of payroll and weekly statements, as well as withholding of progress estimate until cited infractions have been satisfied, shall be emphasized.

When a violation is discovered in reviewing a payroll it is essential that a **Notification of Payroll Violation, Form No. 700-010-59**, be issued in each instance (Code 1 through 7) in order that frequency of violations can be monitored.

The Resident Compliance Specialist shall generate the original Notification of Payroll Violation of the cited payroll to be sent to the contractor. If the review of the certified supplemental payroll by the Resident Compliance Specialist substantiates that the cited violation has been corrected, the Contractor will be considered to be in compliance and no further action is required. Comments shall be entered into CARS reflecting that corrections have been satisfied. However, if the corrective action does not satisfy the violation cited or if a certified supplemental payroll is required and is not received within the (20) twenty days allotted, and/or is received and does not satisfy the infraction, then withholding of the monthly progress payment shall be exercised. (Refer to CPAM, Section 5.4.7 for detailed responsibilities).

**District Level Responsibilities:** The District Contract Compliance Manager shall insure that all wage violations are entered into the **Construction Automated Reporting System (CARS)**. A current listing of all those given access to CARS will be maintained by the District Construction Engineer's Office. The District Contract Compliance Managers shall provide instructions for entering data into the Contractor Noncompliance Program to all personnel assigned this task as requested.

### **6.6.2 Failure to Submit Required Payroll Records or Resolve Violations**

“Refer to Workbook Section 1.6, Performance Deficiency Communications and Actions for information pertaining to sanctions taken for non submission of payrolls and lack of resolution to payroll violations.

## **Section 6.7**

### **Wage Surveys**

#### **6.7.1 Purpose**

Wage surveys are the means with which the USDOL gathers information to update the WD's with what are to be determined as prevailing wage rates.

#### **6.7.2 Requirements**

Wage surveys will be conducted when the US Department of Labor (USDOL) initiates them and commits to publishing new wage tables from the surveys. USDOL will outline the time period for which survey data will be collected, which is usually for a year's time period. The Prevailing Wage Rate Coordinator, along with the District Contract Compliance personnel, will encourage Contractor participation by means of announcements and workshops in the districts and communication through the Contractor's associations. The points will be stressed that (1) the results of the survey's accuracy are determined by the amount of participation (poor participation creates erratic rates in the wage tables) (2) once the survey is done, rates will be in effect for at least the next three years and (3) if voluntary participation is not successful the Department will have no choice but to return to a contract requirement method of collecting data.

#### **6.7.3 Data Collection**

USDOL will provide the forms and assemble the data when collected. Instruction will be given by USDOL and/or FDOT to help guide Contractors and other Department personnel through the survey process.