

## **Ohio Prevailing Wage Compliance Checklist**

Workers on most Ohio public improvements<sup>1</sup> must be paid at the prevailing wage rate pursuant to Ohio state law.<sup>2</sup> Prevailing wages are determined by the union contract rates for each trade in each geographic jurisdiction. The Ohio Department of Commerce, Division of Labor and Worker Safety, Bureau of Wage and Hour is responsible for ensuring prevailing wage compliance on Ohio public works. It is important for contractors and subcontractors on prevailing wage jobs to ensure compliance with the notice, record-keeping and wage payment requirements of the prevailing wage statute. This checklist is intended as a general guide to prevailing wage compliance under the Ohio prevailing wage statute.

1. **Determine Whether the Job is a Prevailing Wage Job.** Determining whether a job is a prevailing wage job is not always as easy as it sounds. While some situations are clear, such as a job where the owner is a political subdivision like a city, township or state University, some jobs that appear private have prevailing wage obligations because they are funded in whole or in part by public money. Here are some tips for determining whether the job is a prevailing wage job:
  - Did you participate in a competitive bidding process for the job? If so, the job is likely a prevailing wage job. Check all bid documents to make sure if it is not clear.
  - How is the job being funded? Check with the owner, general contractor or construction manager if you think there may be public money involved.
  - What does your contract say? Prevailing wage law requires that all contracts, from the top down, contain language indicating that the job is a prevailing wage job. WARNING: Some contractors and subcontractors do not understand this requirement and fail to include the legally required language. Unfortunately, this does *not* excuse a subcontractor's duty to comply with prevailing wage requirements. When in doubt – ask.
  
2. **Determine Prevailing Wage Rates Before Bidding on the Job.** Once you have determined that prevailing wage rates apply to a job, the next step is to determine the prevailing wage rates that are currently applicable, as well as whether any changes are likely during the term of the project. To do this, navigate to the website for the Ohio Department of Commerce, Division of Labor and Worker Safety, Wage and Hour Bureau (<http://www.com.state.oh.us/laws/>, then click on “Wage and Hour Bureau” at the top of the page). Once there, click on “View Wage Rates” in the upper left corner. If you have not used the website before, you will need to register. Once registered and logged on, you

---

<sup>1</sup> The prevailing wage statute applies to new construction of \$69,853 or more and to reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of \$20,955 or more.

<sup>2</sup> Note that federal construction projects may be subject to the federal prevailing wage statute, known as the “Davis-Bacon Act.” This checklist does not apply to federal projects subject to the Davis-Bacon Act.

This material has been prepared by the labor and employment attorneys at Taft, Stettinius & Hollister LLP. The information herein is derived from statutes, administrative regulations, court decisions, administrative rulings, and general legal information. Nothing herein should be construed as a legal opinion on specific acts. Readers should not act upon information contained on this website without professional guidance.

can view wage rates for a particular project, or you can enter the word “Research” on the project line to view the wage rates by County and by union. It is important to pay attention to the contract expiration dates for the applicable wage rates. If a contract is set to expire during the expected term of your project, you can reasonably expect that the wage rates will go up. Make sure to include a reasonable wage increase in your labor cost calculation. NOTE: Once you have registered on the Wage and Hour Bureau’s website, you will automatically receive e-mails updating you on changes in prevailing wage rates.

3. **Determine Your Fringe Benefit Amounts.** The prevailing wage rate required on prevailing wage jobs is a combination of cash payments and a reasonable amount for fringe benefits. The following fringe benefits are automatically considered reasonable up to the amount listed in the prevailing wage schedule:

- Medical or hospital care insurance;
- Pensions or retirement or death insurance;
- Compensation for occupational injuries or illnesses over and above workers’ compensation benefits;
- Supplemental unemployment benefits;
- Life insurance;
- Disability and sickness insurance;
- Accident insurance;
- Vacation and holiday pay;
- Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected.

“Other bona fide fringe benefits” may still qualify under Ohio law. However, it is important to seek prior approval of such fringe benefits from the Wage and Hour Bureau before counting them toward prevailing wage rates. In addition, if a contractor wishes to claim credit for an amount greater than the amount listed in the prevailing wage schedule, it must provide evidence to support the excess credit.

4. **Provide the Appropriate Notices.** Once you have been selected as a contractor or subcontractor on a prevailing wage job, you must provide certain notices to employees both individually and through postings.

- Post the current prevailing wage rate schedule on the jobsite where it is available to all employees. If necessary, post it in more than one place. Make sure to post any updates. If you have registered at the Wage and Hour Bureau’s website, you will receive e-mail updates of all prevailing wage rate changes.
- Send individual notices to each employee, before they begin work on a prevailing wage job, providing them with their classification, prevailing wage rate, fringe benefit amounts, and the name of the Prevailing Wage Coordinator for the

This material has been prepared by the labor and employment attorneys at Taft, Stettinius & Hollister LLP. The information herein is derived from statutes, administrative regulations, court decisions, administrative rulings, and general legal information. Nothing herein should be construed as a legal opinion on specific acts. Readers should not act upon information contained on this website without professional guidance.

project. A sample notification to employees is available on the Wage and Hour Bureau's website. Click on "Forms" at the top of the page.

5. **Keep the Appropriate Records.** A major part of prevailing wage compliance is recordkeeping. Keep full and accurate payroll records available for inspection by the Bureau of Wage and Hour or the contracting public authority, including the Prevailing Wage Coordinator. Records should include but are not limited to:

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

In addition, it is important to complete and turn in your certified payroll reports in a timely manner. Prior to submitting the initial payroll report, supply the Prevailing Wage Coordinator with your project dates to schedule reporting of your payrolls, as well as a list of your subcontractors, if any, including a contact name, address and telephone number. Submit certified payrolls within two (2) weeks after the initial pay period. Payrolls must include the following information:

- Employees' names, addresses, and social security numbers.
- Corporate officers/owners/partners and any salaried personnel that do physical work on the project are considered employees. All rate and reporting requirements are applicable to these individuals.
- Employees' work classification.
  - ✓ Be specific about the laborers and/or operators
  - ✓ For all apprentices, show level/year and percent of journeyman's rate
- Hours worked on the project for each employee.
  - ✓ The number of hours worked in each day and the total number of hours worked each week.
- Hourly rate for each employee.

This material has been prepared by the labor and employment attorneys at Taft, Stettinius & Hollister LLP. The information herein is derived from statutes, administrative regulations, court decisions, administrative rulings, and general legal information. Nothing herein should be construed as a legal opinion on specific acts. Readers should not act upon information contained on this website without professional guidance.

- ✓ The minimum rate paid must be the wage rate for the appropriate classification. The Department's Wage Rate Schedule sets this rate.
- ✓ All overtime worked is to be paid at time and one-half for all hours worked more than forty (40) per week.
- Where fringes are paid into a bona fide plan instead of cash, list each benefit and amount per hour paid to program for each employee.
  - ✓ When the amount contributed to the fringe benefit plan and the total number of hours worked by the employee on all projects for the year are documented, the hourly amount is calculated by dividing the total contribution of the employer by the total number of hours worked by the employee.
  - ✓ When the amount contributed to the fringe benefit is documented but not the total hours worked, the hourly amount is calculated by dividing the total yearly contribution by 2080.
- Gross amount earned on all projects during the pay period.
- Total deductions from employee's wages.
- Net amount paid.

The reports must be certified by the contractor, subcontractor, or duly appointed agent stating that the payroll is correct and complete; and that the wage rates shown are not less than those required by O.R.C. 4115. A sample certified payroll report form is available on the Wage and Hour Bureau's website. Click on "Forms" at the top of the page.

6. **Be Careful With Apprentices.** Apprentices can be paid at a lower rate under the prevailing wage statute, which makes using them very attractive. However, use of apprentices can carry many pitfalls for the unwary contractor. Keep these tips in mind:
  - Apprentices may only be used where the union contract applicable to a particular location allows for them, and then only in the ratio stated in the contract. The ratio is independently applicable to each hour of each day. So, for example, if a journeyman calls off sick for one day of a project, the apprentice must be paid as a journeyman that day, unless another journeyman is available to keep the ratio.
  - Apprentices must be enrolled in an apprenticeship program that is approved by the State Apprenticeship Council.
  - Apprentice pay is tied to progress in the apprenticeship program. Make sure that your apprentices' pay is increased appropriately as he or she moves through the program.
7. **Use the "Laborer" Classification Appropriately.** Most prevailing wage rate schedules will include a classification for "laborers," and the wage rate for laborers is typically one of the lowest on the list. It is important to ensure that the work being done by particular

This material has been prepared by the labor and employment attorneys at Taft, Stettinius & Hollister LLP. The information herein is derived from statutes, administrative regulations, court decisions, administrative rulings, and general legal information. Nothing herein should be construed as a legal opinion on specific acts. Readers should not act upon information contained on this website without professional guidance.

workers actually falls into the classification of “laborer,” and not into a more specific trade classification. NOTE: The Bureau of Wage and Hour has taken the position that set up and clean up for specific trade work often does not fall into the laborer classification.

8. **Off-site Work Counts.** Prevailing wage laws in Ohio apply to work done off-site where the product created is specifically intended for the prevailing wage job. The important factor in determining whether off-site workers must be paid prevailing wage rates is whether they are creating basic inventory stock for the contractor, or whether they are pre-fabricating materials specifically intended for a prevailing wage job.
9. **Watch for Wage Rate Updates.** Prevailing wage rates increase as wages rates increase under the collective bargaining agreements from which they came. Contractors are responsible for ascertaining the correct prevailing wage rates at all times, regardless of whether a higher-level contractor, owner, or the Wage and Hour Bureau fail to give notice of the increase. By registering at the Wage and Hour Bureau’s website, you will receive regular updates of prevailing wage rate increases. Whenever you are working on a prevailing wage job it is of vital importance that you pay attention to these updates, check the website if you haven’t received any for a while, and increase pay rates as required.
10. **Keep Track of Dual-Classified Employees.** For merit-shop contractors with employees who work in more than one trade it is especially important to keep track of how many hours the employee works in each trade each day, and to pay the applicable wage rate for each trade.
11. **Ask Questions.** When in doubt, call your labor counsel or the Bureau of Wage and Hour.

This material has been prepared by the labor and employment attorneys at Taft, Stettinius & Hollister LLP. The information herein is derived from statutes, administrative regulations, court decisions, administrative rulings, and general legal information. Nothing herein should be construed as a legal opinion on specific acts. Readers should not act upon information contained on this website without professional guidance.