

GUIDELINES FOR CONTRACTORS:
WHAT YOU NEED TO KNOW ABOUT PREVAILING WAGES

Pursuant to Sections 220 and 230 of the New York State Labor Law all workers employed by contractors and/or subcontractors must be paid prevailing wages and supplemental benefits as provided in the prevailing wage schedules that are a part of your contract. The purpose of this pamphlet is to make all contractors and subcontractors aware of their obligations under this law and to ensure that all covered workers receive the wages and benefits to which they are entitled.

The office of the Comptroller of the City of New York determines the prevailing wage which includes wage rates and supplemental benefits – for each trade, commensurate with the nature of the work performed, as set forth in the Comptroller’s Schedule of Wage Rates. Failure to comply is a violation of law, which may result in a debarment from public work in the State of New York. In addition the prime contractor will be held liable for the underpayment, and interest of up to 16%, as well as a civil penalty of up to 25% of that total amount.

If a worker believes that he or she has been underpaid on a public work contract, they may file a complaint with the Bureau of Labor Law in the Office of the Comptroller. An allegation of prevailing wage violation may also be investigated by the contracting agency, the New York City Department of Investigation, the District Attorney, or the Internal Revenue Service, and may result in a criminal complaint against the prime contractor and/or subcontractor(s).

After review of agency and contractor records by the Bureau of Labor Law, the Comptroller’s Office may find the contractor or subcontractor has violated the provisions of Labor Law Sections 220 and/or 230. If so, the Comptroller’s Office will determine the amount of the violation, in terms of wages and benefits underpaid inclusive of interest and whether or not the violation is willful.

If such a violation is determined to be willful, the contractor or subcontractor, in addition to the underpayment, may be assessed a civil penalty of up to twenty-five percent (25%) of the total amount due. Within a six (6) year period, if a contractor or subcontractor receives two (2) willful determinations, it will be debarred, and ineligible to bid on or be awarded public work in the State of New York for a period of five years from the date of the second determination. Additionally, when a determination involves the falsification of a payroll report, the contractor or subcontractor is subject to a debarment on a single such incident.

New York State law requires that contractors post schedules of prevailing wages and supplemental benefits at the job site of a public works project in a prominent and a accessible location. These notices must be kept current and legible. Under the law the prime contractor is liable for any underpayment to workers by its subcontractors and is liable for any civil penalty that may be imposed.

It is imperative that all contractors and subcontractors ensure that all workers properly complete daily sign-in sheets by printing and signing their name, job title, social security number, start date, time in and out. The

maintenance of such a sign-in sheet will ensure that accurate records of the days and number of hours worked by each employee are kept. Additionally, it is required that the prime contractor ensure that all workers, laborers, and mechanics on a public works project be given an individual form stating that they are entitled to receive the prevailing wages and supplements for the trade at which they are working and stating the appropriate prevailing wages and benefits for that trade. These forms should be accompanied by a signed statement by each employee that they have received such notice.

All contractors and subcontractors must also maintain on site certified payroll reports on which each employee is designated a journey person or an apprentice. Section 220 (3-a a) requires that each contractor or subcontractor shall keep original payrolls or transcripts thereof, affirmed as true under the penalty of perjury, showing the hours and days work by each worker, the occupation at which he worked and the hourly wage rate and supplements paid. The contractor shall maintain the original payroll or transcripts thereof for three (3) years from the date of completion of the work on this contract. Any payroll found to be falsified is grounds for a debarment and may be referred to the District Attorney for criminal prosecution as a class "E" Felony.

It is important for prime contractors to be aware that they are ultimately responsible for all underpayments and penalties awarded by a Comptroller's determination. Even if the prime contractor has followed all rules, complied with all contract provisions, and has adhered to all the aforementioned procedures, it is still liable for any failures or omissions on the part of any of its subcontractors. Prime contractors therefore, should not only ensure their own compliance and accuracy of payrolls, but must make certain that its subcontractors are paying the proper wage and benefits and have properly classified employees for whose wages they are responsible.

Prime contractors are strongly advised to maintain communication with all subcontractors and workers, thereby having an accurate record of all workers on the job site. Prime contractors should periodically list the names of all workers on the job site, and obtain evidence of prevailing wage and benefits to the workers. Correspondingly, each subcontractor should be asked to produce periodically payroll reports and sign-in sheets. Prime contractors should regularly compare these documents before making payments to subcontractors to determine whether prevailing wages have been paid.

For the purpose of Prevailing Wage enforcement, Construction Managers will be treated as prime contractors and shall be subject to the same degree of accountability and to the same penalties for non-compliance by it or its contractors.

City of New York
OFFICE OF THE COMPTROLLER

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