

Contractor and Subcontractor Responsibilities

Public Improvement Requirements

Workforce and Reporting Requirements on Certain Public Improvements

2023's [House Bill 2649](#) updated the requirements for apprenticeship utilization thresholds and set aspirational benchmarks for women, minority, and veteran participation on certain public improvement projects. These new requirements apply *only* to public improvement contracts done by "qualifying agencies." **Qualifying agencies** are:

- State agencies;
- Higher Education Coordinating Commission when using funds from the State Treasury for the construction costs of a public improvement;
- Public universities listed in ORS 352. when 002 using funds from the State Treasury for the construction costs of a public improvement; and
- Community colleges when using funds from the State Treasury for the construction costs of a public improvement.

Apprentice Requirements

On public improvement contracts done by qualifying agencies for which the contract price exceeds \$3,000,000, the contractor must employ apprentices to perform 12% or more of the work hours that workers in apprenticeable occupations perform on the contract. In addition, the contractor must require in each subcontract with a contract price of \$750,000 or more that the subcontractor employ apprentices to perform 12% or more of the work hours that workers in apprenticeable occupations perform on the subcontract.

If a contractor does not meet the apprenticeship utilization requirement, the qualifying agency must reduce the payment made to the contractor by \$15 per hour for each hour the contractor's apprenticeship utilization was short of the 12% requirement. The computation for the payment reduction is:

$$((\text{total number of all hours worked} \times 12\%) \text{ minus the number of apprentice hours worked}) \times \$15$$

The contractor may provide in a subcontract with a contract price of \$750,000 or more that the contractor may reduce the payment made to the subcontractor by \$15 per hour for each hour the subcontractor's apprenticeship utilization was short of the 12% requirement.

Outreach, Recruitment and Retention

For all public improvement contracts done by qualifying agencies, regardless of contract amount, the contractor must establish and implement a plan for outreach to, and recruitment and retention of, women, minority individuals, and veterans to perform work on the public improvement contract. The aspirational target is that individuals in one or more of these groups make up at least 15% of the total number of workers on the public improvement contract.

The contractor on a public improvement contract must require any subcontractor with a subcontract price of \$750,000 or more establish and implement their own plan for outreach to, and recruitment and retention of, women, minority individuals, and veterans to work on the on the subcontract, with the same aspiration target that individuals in one or more of these groups make up at least 15% of the total number of workers on the subcontract.

Reporting Requirements

Contractors must report their compliance and their subcontractors' compliance with the outreach, recruitment and retention requirements to the qualifying agency.

Additionally, contractors must track and report to the qualifying agency worker information including the worker's name, occupation, and number of hours worked on the project; whether the hours are journey worker or apprentice hours; and the worker's race/ethnicity, gender, and veteran status. Contractors may use BOLI's Enhanced Payroll/Certified Statement form for this purpose, which can be found on the forms table on the BOLI website [here](#).

For more information on these requirements, see the [FAQs](#) on BOLI's website.

Prevailing Wage Rate Law Requirements

Filing a Public Works Bond with Construction Contractors Board

Contractors and subcontractors must file a \$30,000 public works bond with the Construction Contractors Board (CCB) before beginning work on a public works project. The public works bond must provide that the contractor or subcontractor will pay claims ordered by the bureau to workers on public works projects. Unlike other required payment and performance bonds, the public works bond remains in effect continuously and covers all public works projects worked on during the duration of the bond. ORS 279C.836(1)

Public works bond forms can be found on the forms table on BOLI's website [here](#).

Before allowing a subcontractor to start work on a public works project, the contractor must ensure the subcontractor has filed a public works bond with the CCB. This information can be found on [CCB's website](#) in the [Contractor License Search](#) section. ORS 279C.836(2)

Any person that is required to pay prevailing wages on a public project must file a public works bond with the CCB. This is the case even if the employer does not have a CCB license. For example, non-construction companies such as temporary employment agencies are not required to have a CCB license, but if they employ workers on a public works project, they will have to pay those workers the appropriate prevailing wage rate and will therefore be required to file a public works bond with the CCB, using this [form](#). ORS 279C.836(4)

An exemption from this requirement is allowed for a certified disadvantaged business enterprise, minority-owned business, woman-owned business, a veteran-owned business, or an emerging small business enterprise, for the first four years of certification. (For information on becoming certified, see the Business Oregon [Certification Office for Business Inclusion and Diversity](#) website.) Such an enterprise must provide the CCB with written notification of its certification, and must complete the [CCB's exemption form](#). In addition, when the business enterprise is the prime contractor, it must notify the public agency that a public works bond has not been filed by the business enterprise. When the business enterprise is a subcontractor, it must notify the prime contractor that a public works bond has not been filed by the business enterprise. ORS 279C.836(7)(a) and (c)

If a certified business as described above meets the requirements for exemption from the public works bond, but BOLI finds the business to have violated the prevailing wage rate law, the business will be required to file a public works bond with the CCB before beginning work on a public works project. ORS 279C.838(7)(b)

Contractors and subcontractors working on a public works project with a total project cost of \$100,000 or less may elect not to file a public works bond with CCB. This \$100,000 threshold amount is for the total project cost, not for an individual contract amount. For example, if a subcontractor has a \$10,000 contract on a project with a total cost of \$300,000, the subcontractor must file a public works bond with CCB before beginning work on this project. ORS 279C.836(8), ORS 279C.810(2)(a)

In some cases of emergency, if declared in accordance with rules adopted under ORS 279A.065, the requirement for filing a public works bond with CCB may be excused. ORS 279C.836(9)

Required Contract Language

Every contract and subcontract must contain a provision that states the workers will be paid not less than the applicable prevailing wage rate for the type of work being performed. ORS 279C.830(1)(c); OAR 839-025-0020(5)(a)

If the project is subject to both the state prevailing wage rate law and the federal Davis-Bacon Act, every contract and subcontract must contain a provision that states the workers must be paid not less than the higher of the applicable state or federal prevailing rate of wage. ORS 279C.830(1)(d); OAR 839-025-0020(5)(b)

Every contract and subcontract must contain a provision that requires any subcontractor to have a public works bond filed with Construction Contractors Board before starting work on a public works project, unless the subcontractor is exempt from the bond requirement. ORS 279C.830(2)(b) and (c); OAR 839-025-0020(3) and (4)

Specification and Contract Requirements on Public/Private Projects

When a project is a public works project of the type described in ORS 279C.800(6)(a)(B), (C), (D), (E), or (F) (e.g., a public works project where a public agency provides funds for the project but does not award a contract to a contractor), the specifications for the project must contain a provision that states the applicable prevailing wage rates for the project. Additionally, every contract and subcontract for the project must provide that contractors and subcontractors must pay each worker on the project not less than the applicable prevailing wage rate. OAR 839-025-0020(10)

Payment of Prevailing Wages

Contractors and subcontractors must pay workers on public works projects no less than the applicable prevailing rate of wage for the type of work they perform. ORS 279C.840; OAR 839-025-0035(1)

A “worker” is defined as a person 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 a person whose duties are mental, professional or managerial. OAR 839-025-0004(38)

Except for “public works” projects under ORS 279C.800(6)(a)(B), (C), (D), (E), and (F), projects that use a Construction Manager/General Contractor (CM/GC), and some projects that are subject to both state and federal PWR laws, the rates in effect at the time the initial specifications are first advertised for bid solicitations are the rates that apply for the duration of

that project. OAR 839-025-0020(6)(b) (See the “Applicable Rates on Public Works Projects” section for more information.)

When a non-residential public works project is subject to both the state and federal prevailing wage rate laws, contractors and subcontractors must pay the higher of either the state or federal prevailing wage rates for the type of work being performed. ORS 279C.838; OAR 839-025-0035(2)

If a project meets the definition of “residential construction” in OAR 839-025-0004(29), and the public agency has established the residential rates for the project, contractors may pay the federal residential wage rates to workers. These rates can be found on the U.S. Department of Labor’s web site, www.sam.gov. However, if the applicable federal residential rate is lower than Oregon’s minimum wage, contractors must pay workers not less than the state minimum wage. When there is no applicable federal residential rate for a particular trade or classification being used on the project, the public agency must request a special wage rate. If the public agency does not request a special wage rate, the contractor must pay the appropriate state prevailing wage rate found in BOLI’s PWR rate book publication. OAR 839-025-0037

Contractors and subcontractors are in compliance with prevailing wage rate (PWR) requirements if the amounts paid to the employee in wages and in qualified fringe benefits meet or exceed the total of the base and fringe benefits rates published in the rate book. For example, if the base rate is \$20 per hour and the fringe rate is \$4 per hour, and the employee works eight hours a day, Monday through Friday, the employee is entitled to \$960 [(\$20/hour x 40 hours) + (\$4/hour x 40 hours)].

The employer can satisfy this obligation by paying \$960 in wages to the employee, or \$600 in wages to the employee and \$360 to a fringe program, or \$700 in wages and \$260 in fringe benefits – or any other similar combination of wages and fringe benefits.

Employees with Multiple Classifications

Employees who perform more than one classification of work must be paid the applicable prevailing wage rate for the time spent working in each classification. It is the employer’s responsibility to track separately the hours spent by each employee doing each job classification, and to report them separately on the certified payroll. If this is not done, the employee must be paid for all hours worked at the highest rate the employee earned that week.

Apprentices

Bona fide apprentices may be paid a percentage of the hourly base prevailing wage rate according to the term in which the apprentice is working in the program. To be a bona fide apprentice:

- The apprentice must be registered with either BOLI’s Apprenticeship and Training Division or the federal Bureau of Apprenticeship and Training;
- The apprentice must be performing work within their program standard;
- The apprentice must be working in the correct ratio to the number of journey workers on the project, as specified in the program standard; and
- The employer must be a registered training agent. OAR 839-025-0004(1) and (35); OAR 839-025-0035(9) and (10); OAR 839-025-0060; OAR 839-025-0065

If apprentices are not working within the correct ratio to the number of journey workers on the project, as specified in the program standards, all apprentices must be paid the full prevailing wage rate for the time they are working out of ratio. OAR 839-025-0035(9) and (10)

Apprentices generally must be paid the full fringe benefit portion of the prevailing wage rate. However, in certain trades, apprentices may be paid less than the full fringe benefit rate according to the prevailing practice for that trade. Spreadsheets showing the hourly base and fringe rates owed to apprentices can be found on BOLI's website [here](#). OAR 839-025-0040(2)

If zone pay or other premium pay, such as a shift differential, is required for the classification in which the apprentice is working, the full hourly zone pay and/or premium pay must be paid to the apprentice for each hour worked on the project site.

If the program standards under which the apprentice is working require a higher rate of pay than the applicable prevailing wage rate, the training agent must pay the apprentice the appropriate rate as required by the program standards.

Owners, Managers, and Supervisors

The requirement to pay the applicable prevailing rate of wage may apply to owners, managers and supervisors. If owners, managers, or supervisors perform manual labor for more than 20 percent of their overall workweek, then all time spent performing labor on a public works project that week must be paid at the applicable prevailing rate of wage for the type of work performed during those hours, and those hours must be reported on the certified payroll. On the other hand, if owners, managers, or supervisors spend 20 percent or less of their overall workweek performing manual labor, they do not need to be paid prevailing wages that week, nor do their hours worked on a public works project that week need to be reported on the certified payroll. OAR 839-025-0035(3) and (4)

For example, if a supervisor works 42 hours one week, and during that week spends a total of nine hours performing manual labor on either public or private projects, the supervisor will have spent 21.4 percent of the workweek performing labor. Therefore, if some or all of the nine hours were spent performing manual labor on a public works project (or on several public works projects), the supervisor must be paid the appropriate prevailing wage rate for those hours of work.

For information on "owner/operators" of trucks, see the Owner/Operator section below.

Site of Work – Projects Subject to Oregon's PWR Law

Contractors and subcontractors must pay prevailing wages for work done at the site of work. The site of work is the physical place or places where the construction, reconstruction, major renovation, or painting called for in the contract will remain after work is complete, or the physical place or places where the demolition or hazardous waste removal call for in the contract will be performed.

On public works projects subject to Oregon's PWR law, the site of work also includes pits, batch plants, tool-yards and similar locations that are within a reasonable distance of the structure. Any such locations established after the project was first advertised for bid are considered "dedicated" and are part of the site of work. Even if the pit, batch plant, or tool-yard was opened before the first advertisement, it is part of the site of work if it is dedicated or nearly so to the PWR project.

Work performed on a dedicated site must be paid at the appropriate prevailing wage rate. Additionally, the drive time between the dedicated site and the project site must also be paid at

the appropriate prevailing wage rate. OAR 839-025-0004(30); OAR 839-025-0035(5), (6), and (7)

Site of Work – Projects Subject to Oregon’s PWR Law and the Davis-Bacon Act

On public works projects subject to both Oregon’s PWR law and the federal Davis-Bacon Act, the federal requirements for “site of work” will apply to the project. ORS 279C.838(2)

Under the federal Davis-Bacon Act, the site of work is the physical place where the construction called for in the contract will remain, and also includes:

- Pits, batch plants, tool-yards and other locations that are dedicated exclusively or nearly so to the project, provided they are adjacent or virtually adjacent to the project site or a secondary construction site, and
- Secondary construction sites where a significant portion of the building or work is constructed if the site is dedicated exclusively or nearly so to the project for a specific period of time. [29 CFR 5.2](#)

On public works project subject to both Oregon’s PWR law and the federal Davis-Bacon Act, work performed on a dedicated site or on a secondary construction site must be paid at the appropriate prevailing wage rate. Additionally, the drive time between the dedicated site and the project site, and the drive time between the secondary construction site and the project site, must be paid at the appropriate prevailing wage rate.

Truck Drivers – Projects Subject to Oregon’s PWR Law

Truck drivers and delivery personnel working for contractors, subcontractors, and commercial suppliers must be paid the appropriate prevailing wage rate for time spent performing manual labor on the project site. This includes driving time on site, loading and unloading, and any other manual labor performed on the project site. OAR 839-025-0004(38); OAR 839-025-0035(7); OAR 839-025-0035(6)

Generally, truck drivers and delivery personnel are not required to be paid the prevailing rate of wage for delivery *to and from* the project site. For example, driving time between a contractor’s place of business and the project site does not have to be paid at a prevailing rate of wage. However, as noted in the “Site of Work” section of this handbook, time spent driving between the project site and a dedicated site must be paid at the appropriate prevailing wage rate.

Truck Drivers – Projects Subject to Oregon’s PWR Law and the Davis-Bacon Act

On public works projects that are subject to both Oregon’s PWR law and the federal Davis-Bacon act, truck drivers and delivery personnel working for a contractor or subcontractor must be paid the appropriate prevailing wage rate for driving time and other manual labor performed on the project site, provided the time spent on site is more than just a few minutes. However, it is the total amount of time the truck driver or delivery personnel spends on the site of work during a typical day or workweek that must be considered. For example, if a truck driver works on site for a few minutes per delivery, but makes multiple deliveries per day or week, the time spent on site may be aggregated.

On public works projects that are subject to both Oregon’s PWR law and the federal Davis-Bacon Act, truck drivers and delivery personnel working for a material supplier are not due prevailing wages, provided the only work being performed is driving on site, loading or unloading, or waiting for materials to be loaded or unloaded. ORS 279C.838(3), [29 CFR 5.2](#)

Owner/Operators

The PWR law does not apply to “owner-operators” of trucks. Drivers who own and operate their own trucks and who are independent contractors do not need to be paid prevailing wages for the time spent driving their own trucks. However, operators of other equipment or motor vehicles, and owners of other types of businesses, are not exempt from the PWR laws. For information regarding the applicability of the prevailing wage rate laws for these types of owners, see the Owners, Managers and Supervisors section above.

Fringe Benefits

Employers may claim credit for bona fide fringe benefits they provide to their employees. The employer’s contribution must be made for the benefit of the employee, must not be required by law, and must be made on a regular basis (at least quarterly). Plans that provide for delayed vesting or have eligibility requirements are “bona fide” if they meet the other requirements. Safety training, drug testing, state industry council contributions, trade promotion funds, equipment costs, travel pay, per diem payments and workers’ compensation insurance do not qualify as fringe benefits. Oregon law now requires employers to provide paid sick leave under certain circumstances. When paid sick leave is required by law, it will not qualify as a fringe benefit. See Appendix A for more information on when paid sick leave may qualify as a fringe benefit. ORS 279C.800(1); OAR 839-025-0004(10)

Examples of Bona Fide Fringe Benefits

- Health and welfare plans
- Vacation plans
- Pension plans, in some cases
- Apprenticeship training

See Appendix A for more information on fringe benefits and their required qualifications, and for instructions on how to calculate the amount that may be credited for payments into fringe benefit programs.

When reporting fringe benefit credits on certified payroll reports, these must be listed separately for each employee, by plan name, showing the hourly credit taken for each plan.

Payment of Prevailing Wage by Persons Other than Contractors or Subcontractors

The law forbids any third party to pay any portion of the prevailing wages owed. This most often occurs in “market targeting” plans. **Exception:** Government agencies may pay a portion of the prevailing wages pursuant to a bona fide worker training or retraining program, and sureties and public agency are not prohibited from paying prevailing wages owed to workers. However, when a third party such as a surety, public agency or prime contractor pays prevailing wages owed on behalf of a contractor or subcontractor, BOLI may impose civil penalties against the non-paying contractor or subcontractor, and may place the non-paying contractor or subcontractor on a list of companies who are ineligible to work on public works projects for a certain period of time. ORS 279C.840(6); ORS 279C.860(1)(b) and (c); OAR 839-025-0320

Wage Averaging

The PWR law also bans wage averaging. Wage averaging is lowering workers’ wages on non-PWR jobs to compensate for higher rates contractors or subcontractors pay on jobs subject to the prevailing wage rate laws. ORS 279C.840(7); OAR 839-025-0330

Overtime and Work Schedules

Overtime Requirements

Generally, on projects subject to the PWR law, overtime is due on a daily basis, after eight hours per day, Monday through Friday. This is the case even if the employee has not worked 40 hours in the workweek.

If an employee works an established schedule of four ten-hour days on a PWR covered project, overtime may not be due until after ten hours per day. To have an established “four-ten” schedule, the four days of work must be consecutive and must fall within Monday and Friday; therefore, an employee could work a four-ten schedule of either Monday through Thursday or Tuesday through Friday. ORS 279C.540; OAR 839-025-0050

An employer may change an employee’s established work schedule, but only if the change is intended to be permanent and is not designed to evade the PWR overtime requirements. For example, an employee working on a Monday-through-Thursday four-ten schedule cannot switch to a Tuesday-through-Friday schedule for one week and still maintain the four-ten schedule that week. Additionally, an employee working on a four-ten schedule on a PWR project cannot work on private projects on days outside of the four-ten schedule and still maintain the four-ten schedule that week. If an established four-ten schedule is not followed, overtime will be owed for all hours worked over eight per day Monday through Friday that week. OAR 839-025-0034

Regardless of the work schedule an employer establishes on a PWR covered project, workers must be paid overtime for all hours worked on Saturdays, Sundays, six legal holidays (New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day), and for hours worked over 40 in a week. If one of the legal holidays falls on a Saturday or Sunday, the preceding Friday or following Monday becomes the recognized holiday and all hours worked on that day on a PWR covered project must be paid at an overtime rate. ORS 279C.540; OAR 839-025-0050

The overtime rate is 1.5 times the hourly base rate, plus the hourly fringe rate. Although the fringe rate does not have to be paid at time and one half, it must be paid for all hours worked, including overtime hours. Overtime should be paid using the following equation:

$$(hourly\ base\ rate \times 1.5) + hourly\ fringe\ rate$$

If hourly shift differential, hazard pay, or zone pay is due, that amount is added to the base rate, and the following equation should be used:

$$((hourly\ base\ rate + premium\ pay) \times 1.5) + hourly\ fringe\ rate$$

If an employee earns more than one base rate of pay for the day/week, then the daily/weekly overtime owed, in addition to the regular straight time wages, is based on a *weighted average* of the hourly base rates earned. OAR 839-025-0050(2)(b)

See Appendix C of this handbook for examples of weighted average overtime calculations.

If work such as travel time or shop time is compensable time, and if the travel or shop time is related to a public contract, the hours of travel and/or shop time will count toward daily overtime.

For example, an employee on a “five-eight” schedule works the following hours during one day:

- Drive time from shop to PWR project – ½ hour
- Work on PWR project – 8 hours
- Drive time from PWR project to shop – ½ hour
- Work in shop related to PWR project – 1 hour

This employee worked 10 hours this day, and all the work is related to the public contract for the PWR project. Therefore, the employee is due two hours of overtime at the daily weighted average rate. The drive time and shop hours can be paid at an agreed rate rather than at a prevailing wage rate, as the hours are not worked on the PWR project site. However, in this example, both drive time and shop hours count toward daily overtime. ORS 279C.540(1), OAR 839-025-0050(2)(b)

If a collective bargaining agreement applies and has different overtime provisions, the provisions in the bargaining agreement will govern. ORS 279C.540(4)

The overtime provisions of ORS 279C.540 do not apply to contracts with public universities listed in ORS 352.002. Overtime on such projects is due only after 40 hours in the workweek. Public universities listed in ORS 352.002 are the University of Oregon, Oregon State University, Portland State University, Oregon Institute of Technology, Western Oregon University, Southern Oregon University, and Eastern Oregon University. Local and community colleges are not public universities. ORS 352.138

Work Schedules

Contractors and subcontractors must give workers their regular work schedule (days of the week and number of hours per day) in writing, before beginning work on the project. Contractors and subcontractors may provide the schedule at the time of hire, prior to starting work on the contract, or by posting the schedule at the work site, along with the prevailing wage rate information and any fringe benefit information. If an employer fails to give written notice of the worker’s schedule, the work schedule will be presumed to be a five-day schedule. The schedule may only be changed if the change is intended to be permanent and is not designed to evade the PWR overtime requirements. ORS 279C.540(2); OAR 839-025-0034

Required Postings

Prevailing Wage Rates

Each and every contractor and subcontractor must post the applicable prevailing wage rates in a conspicuous place on the project site so workers have ready access to the information. ORS 279C.840(4); OAR 839-025-0033(1)

Details of Fringe Benefit Programs

Contractors and subcontractors must also post the details of all fringe benefit plans or programs if any contributions are made to a health and welfare plan and/or a pension plan. The posting should include a description of the plan, information about how to file a claim and where to obtain more information. ORS 279C.840(5); OAR 839-025-0033(2)

Certified Payroll

Filing Requirements

Every contractor and subcontractor on a covered project must file certified payroll reports with the public agency. Contractors and subcontractors must complete a certified payroll statement for each week a worker is employed on a public work. These certified payroll reports must be submitted once a month, by the fifth business day of the following month, to the public agency. ORS 279C.845; OAR 839-025-0010

Filing Requirements on Public/Private Projects

When a project is a public works project of the type described in ORS 279C.800(6)(a)(B), (C), (D), (E), or (F) (e.g., a public works project where a public agency provides funds for the project but does not award a contract to a contractor), every contractor and subcontractor must file certified payroll reports with the public agency that provided funds for the project, or the public agency that will occupy or use the project, or the public agency that allowed the covered project to be done on the agency's property. These certified payroll reports must be submitted once a month, by the fifth business day of the following month, to the public agency. ORS 279C.845; OAR 839-025-0010

Certified Payroll Report Form

To help contractors and subcontractors satisfy the filing requirement, BOLI has an Excel version of a certified payroll report form (WH-38) which can be found on the forms table on BOLI's website [here](#). The forms table also includes a [fillable PDF version](#) of a certified payroll report form, and [instructions](#) for how to fill out the form. BOLI does not require contractors and subcontractors to use the WH-38 form, but they must supply all information the form requests (unless otherwise noted), and this information must be certified by signing the certified statement (page 2 of the form). Contractors and subcontractors using their own forms or reports can comply with the certification requirement by completing and attaching a copy of the certified statement from the WH-38 form to their filing.

Note: completing and submitting the U.S. DOL payroll report (federal Form WH-347) on projects subject to Oregon's PWR law does not satisfy BOLI's filing requirements.

For each worker, contractors and subcontractors must submit name and address, work classification, the number of hours worked each day, the pay rate, gross amount paid, deductions and net amount paid, and the hourly equivalent contributed to any party, plan, or program for fringe benefits and the type of benefit provided. If fringe benefits are provided to workers as wages, this must be shown as well. If owners, managers, or supervisors have earned prevailing wages during the week, they must also appear on the certified payroll report, showing all the same information as that required for other workers, although deductions and net amount paid may not apply to owners.

When workers perform work in multiple classifications in a single day, the certified payroll report must accurately reflect the number of hours worked in each classification that day.

To meet filing requirements, the employer must sign the certified statement to confirm that the information is true and complete. Unsigned reports do not satisfy the filing requirement. Submitting false or incomplete information may be the basis for civil penalties or debarment.

Withholding Retainage

The PWR law requires prime contractors to withhold 25 percent of any amount earned by a first-tier subcontractor if the subcontractor does not turn in its certified payroll reports each month. Once the certified payroll reports have been submitted, the prime contractor must pay the 25 percent withheld within 14 days. ORS 279C.845(8); OAR 839-025-0010(6)

Other Contractor Responsibilities

Required Records

All contractors and subcontractors who work on public works projects must maintain records showing that the appropriate prevailing rate of wage and overtime rate has been paid to all workers. These records must be maintained for a minimum of three years from the completion of work on public works project. Contractors and subcontractors may opt to keep records longer. When an employer has not kept records, BOLI relies on the evidence provided by the claimant and other available sources. OAR 839-025-0025

Examples of records that must be maintained include:

- Certified payroll reports
- Name and address of each employee
- Work classifications of each employee
- The rates of wages and fringe benefits paid to each employee
- Daily and weekly hours worked by each employee
- Total daily and weekly compensation paid to each employee
- All withholdings and deductions taken from each employee's pay
- Any and all payroll records pertaining to the employees working on the public works project
- All apprenticeship and training agreements

Inspection to Determine Whether Prevailing Rate of Wage Has Been Paid

Upon request by the Commissioner or its representative, every contractor or subcontractor performing work on a public works project must make time, payroll and other records deemed necessary available in order to determine whether the prevailing rate of wage is being paid. Records obtained by BOLI from the contractor or subcontractor, or made from the records obtained by BOLI from a contractor or subcontractor under ORS 279C.850(2), are not public record. ORS 279C.850(2) and (3)

A Checklist for Contractors and Subcontractors

- ❑ Respond promptly and accurately to communications from BOLI.
- ❑ File a public works bond with CCB before starting work on a public works project.
- ❑ Before allowing a subcontractor to work on a PWR project, ensure the subcontractor has filed a public works bond with CCB.
- ❑ Verify that any subcontractor contracted with is not on BOLI's current [List of Contractors Ineligible to Receive Public Works Contracts](#). This list of debarred contractors is on BOLI's website at www.oregon.gov/boli.
- ❑ Include in every contract and subcontract a provision that the workers will be paid not less than the applicable prevailing wage rate for the type of work being performed.
- ❑ Ensure that all subcontractors and employees know that they are working on a prevailing wage rate job.
- ❑ Ensure that supervisors and foremen know how to properly classify workers.
- ❑ Keep accurate daily records. Show the amount of time each worker spends in each classification of work.
- ❑ Review employee time cards often to ensure times and duties are reported accurately. Have employees sign in and out for the day and for lunch.
- ❑ File accurate and complete certified payrolls with the public agency.
- ❑ Notify employees of their work schedules, in writing and prior to beginning work.
- ❑ Post the prevailing wage rates in a conspicuous place on the project site.
- ❑ Post the details of any benefit plans in a conspicuous place on the project site.
- ❑ Keep all required records for at least three years.
- ❑ On required public improvement contracts done by qualifying agencies, follow the requirements for apprenticeship utilization and workforce demographics; report required information to the qualifying agency.

Additional Items for Prime Contractors:

- ❑ Withhold 25 percent of amounts earned by a first-tier subcontractor if the subcontractor does not turn in its certified payroll reports as required.
- ❑ Review the certified payroll and oversee the job site to confirm that subcontractors are properly classifying and paying their workers.
- ❑ Post any required payment bond.