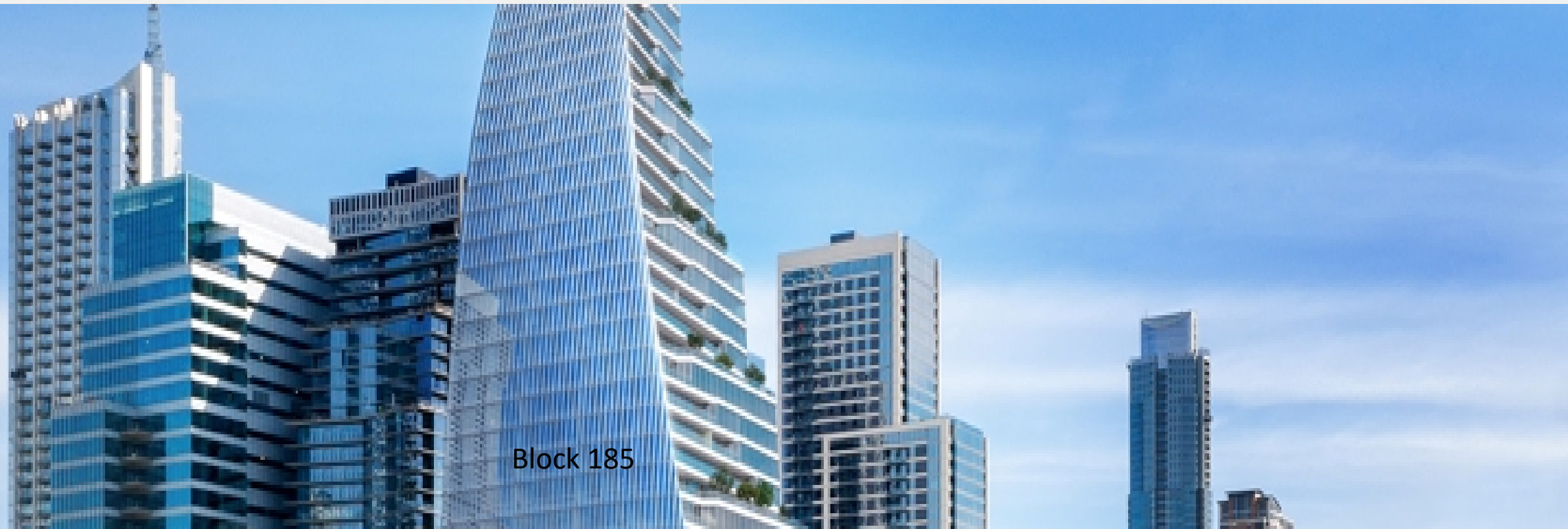




2019 Consultant & Construction Contractor Symposium

Wage Rate and Payroll Reporting





Agenda

- Introduction
- Definitions – Prevailing/COA Minimum
- Contract & Regulatory Requirements
- Determine Applicable Wage Scale
- Different Wage Determinations (BC/HH)
- Prevailing Wage Expectations
- Common Issues of Non-Compliance
- Voluntary Corrective Action Plan (VCAP)
- Sanctions and Penalties
- Questions



Prevailing Wage & COA Minimum Wage

CITY OF AUSTIN

Project Manual

Contract Documents and Technical Specifications

VOLUME 1 OF 1

- Prevailing Wage: determined by the U.S. Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in local areas where such work is to be performed
- COA Minimum Wage: determined by Austin City Council to be the minimum to be paid to workers on City construction contracts

CONTRACT TERMS AND APPLICABLE LABOR AND WAGE LAWS



- Section 00830, Wage Rates and Payroll Reporting – Contract wage requirements
- Davis-Bacon and Related Acts (DBRA) – Mandates prevailing wages
- Government Code, Title 10 Chapter 2258, Prevailing Wage Rates (State) – Adopts DBRA wage scales on city contracts
- City of Austin Ordinance 030508-31 (Municipal) - Sets a minimum wage rate for the contract, currently at \$15.00
- Contract Work Hours and Safety Standards Act (CWHSSA) – Sets overtime rate for work in excess of 40 hours in workweek

REQUIREMENTS OF SECTION 00830 OF THE CONTRACT



- Payment – laborers and mechanics must be paid prevailing wages.
- Overtime – laborers and mechanics must be paid one and one-half times for all hours in excess of 40 hours in a workweek.
- Apprentices – must be registered in a DOL approved program or be paid journeyman wages.
- Certified Payrolls – must be maintained and accessible 3 years after the completion of the project.

PREVAILING WAGE RATE DETERMINATIONS

- **Wage Rate Determinations (*changes published by DOL*) are checked twice weekly**
- **The wage scales are project specific and are applicable through the duration of the contract**
- **The Wage Rates required are located in Section 00830(BC) and/or 00830(HH) of every City of Austin construction contract**



HOW APPROPRIATE WAGE SCALE IS DETERMINED

- Upon assignment of project, wage representative performs detailed project *analysis*, reviewing project scope, plans, and construction commodity codes.
- Wage representative/supervisor determine appropriate wage determination scale (*BC, HH, or Dual*) for project **based on DOL definitions**. Dual determinations will be considered only, “...if such items that fall in a separate type of construction will comprise at least 20% of the total cost and/or cost at least one \$1 million.”

PREVAILING WAGE RATE DETERMINATIONS

- **Building Construction (BC)** – includes the construction, rehabilitation and repair of sheltered enclosures with walk-in access for the purpose of housing person, machinery, equipment, or supplies
- **Heavy and Highway Construction (HH)** – includes the construction, alteration or repair of roads, streets, highways, runway, parking area and most other paving work not incidental to building of heavy construction.

Building Construction (BC) Wage Rates

Bidding Requirements, Contract Forms Conditions of the Contract

WAGE RATES AND PAYROLL REPORTING

Section 00830BC

WAGE RATE DETERMINATION

Building Construction Type

County Name: TRAVIS

Wages based on DOL Prevailing Wage Rate General Decision: TX180323 2/08/2019 TX323 and City of Austin Ordinance #20160324-015

DOL Rate column is for information only. The Total Minimum Wage Rate is derived from the Adjusted Wage Rate Required pursuant to City Ordinance plus the DOL Fringes and can be met using any combination of cash and non-cash qualified fringe benefits, provided the cash component is at least \$15.00/hour.

| Classification | DOL Rate For info Only | Adjusted Wage Rate Required Pursuant to City Ordinance | DOL Fringes | Total Minimum Wage Rate Required |
|--|------------------------------|---|----------------|--|
| Asbestos Worker/Heat & Frost Insulator (Duct, Pipe, and Mechanical System Insulation) | \$ 22.72 | \$ 22.72 | \$ 10.02 | \$ 32.74 |
| Boilermaker | \$ 28.00 | \$ 28.00 | \$ 22.35 | \$ 50.35 |
| Bricklayer | \$ 20.07 | \$ 20.07 | \$ - | \$ 20.07 |
| Carpenter | \$ 21.96 | \$ 21.96 | \$ 7.90 | \$ 29.86 |
| Carpenter (Acoustical Ceiling Installation only) | \$ 14.00 | \$ 15.00 | \$ - | \$ 15.00 |
| Carpenter (Form Work Only) | \$ 15.62 | \$ 15.62 | \$ 0.05 | \$ 15.67 |
| Cement Mason/Concrete Finisher | \$ 15.71 | \$ 15.71 | \$ - | \$ 15.71 |

Heavy and Highway (HH) Rates

Bidding Requirements, Contract Forms Conditions of the Contract

WAGE RATES AND PAYROLL REPORTING Section 00830HH

WAGE RATE DETERMINATION

Heavy and Highway
County Name: TRAVIS

Wages based on DOL General Decision: TX170016 01/04/2019 TX19 and City of Austin Ordinance #20160324-015

DOL Rate column is for information only. The Total Minimum Wage Rate is derived from the Adjusted Wage Rate Required pursuant to City Ordinance, and can be met using any combination of cash and non-cash qualified fringe benefits, provided the cash component is at least \$15.00/hour.

| Classification | DOL Rate For info Only | Adjusted Wage Rate Required Pursuant to City Ordinance | Total Minimum Wage Rate Required |
|--|------------------------------|---|--|
| Agricultural Tractor Operator | \$12.69 | \$15.00 | \$15.00 |
| Asphalt Distributor Operator | \$15.55 | \$15.55 | \$15.55 |
| Asphalt Paving Machine Operator | \$14.36 | \$15.00 | \$15.00 |
| Asphalt Raker | \$12.12 | \$15.00 | \$15.00 |
| Boom Truck Operator | \$18.36 | \$18.36 | \$18.36 |
| Broom or Sweeper Operator | \$11.04 | \$15.00 | \$15.00 |
| Cement Mason/Concrete Finisher | \$12.56 | \$15.00 | \$15.00 |
| Concrete Pavement Finishing Machine Operator | \$15.48 | \$15.48 | \$15.48 |

THE CITY MONITORS AND ENFORCES PREVAILING WAGES

- The initial site visit takes place *within 25 days* of the Notice to Proceed. Additional visits will occur at any time.
 - Verify required Bulletin Postings
 - Observe workers performing work on-site
 - Conduct employee interviews
 - Verify against certified payroll
 - Are apprentices registered w/DOL



WAGE AUDITS

- City of Austin Construction Projects
 - **Complaint-driven:**
 - Contact made directly to CCO citing a potential violation of payment of prevailing wage, will initiate investigation and potential audit.
 - **Observation:**
 - Discovery revealed to necessitate an audit, usually discrepancy between the nature of work being performed and wage being paid.
 - **Random (Requirement: at least 24 annually)**
 - A project is pre-selected for random audit based on Risk Assessment and guidelines for Random Selection of Wage Audits.
 - **Federal Audits:**
 - For all federal projects, CCO is required to conduct one audit/quarter.



MONITORING

- **We review the following to verify compliance with Section 00830 of the Contract:**
 - Certified Payroll (federal projects = weekly, non-federal = upon request)
 - Statement of Compliance
 - Proof of Fringe Benefits (if applicable)
 - Employee Certifications Forms
 - Payroll Deduction Authorization Forms
 - Employee Interviews and Observations

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.



| | | |
|--|---|---|
| NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input checked="" type="checkbox"/> | ADDRESS | OMB No.: 1235-0008 Expires: 01/31/2015 |
| Subcontractor's Name | Subcontractor's Address | |
| PAYROLL NO. 14 | FOR WEEK ENDING 08/22/2014 | PROJECT OR CONTRACT NO. ? |
| | PROJECT AND LOCATION Project Name Project Address | |

| (1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER | (2) NO. OF WITHHOLDING EXEMPTIONS | (3) WORK CLASSIFICATION | (4) DAY AND DATE | | | | | | | (5) TOTAL HOURS | (6) RATE OF PAY | (7) GROSS AMOUNT EARNED | (8) DEDUCTIONS | | | | | (9) NET WAGES PAID FOR WEEK | | |
|--|--|-----------------------------------|-----------------------|---|------|------|-------|-------|------|-----------------------|-----------------------|----------------------------------|-------------------|-------------------------|----------|---------------------|--|---|------------|------------|
| | | | HOURS WORKED EACH DAY | | | | | | | | | | FICA | WITH- HOLDING TAX | OTHER | TOTAL DEDUCTIONS | | | | |
| | | | s | s | m | t | w | th | f | | | | | | | | | | | |
| Employee Name xxx-xx-1234 (compliant) | 1 | laborer, common | o | | 1.00 | 2.50 | 0.50 | | | | 4.00 | \$15.75 | \$483.00 | | | | | | | |
| | | | s | | 8.00 | 8.00 | 8.00 | 8.00 | 8.00 | | | 40.00 | 10.50 | \$483.00 | \$15.75 | \$78.00 | | \$30.00 | \$123.75 | \$359.25 |
| Another Employee Name xxx-xx-5678 (compliant) | 3 | electrician | o | | 5.00 | 2.00 | 0.25 | 0.50 | | | 7.75 | \$40.13 | \$1,694.21 | | | | | | | |
| | | | s | | 8.00 | 8.00 | 8.00 | 8.00 | 8.00 | | | 40.00 | 26.75 | \$1,694.21 | \$84.10 | \$135.78 | | \$83.75 | \$303.63 | \$1,390.58 |
| John Davis xxx-xx-9000 (not compliant) | 0 | laborer, common | o | | | | | | | | | \$10.88 | \$36.25 | | | | | | | |
| | | | s | | 5.00 | | | | | | 5.00 | 7.25 | \$36.25 | \$2.35 | \$1.78 | | | \$4.13 | \$32.12 | |
| Ricardo Sanchez xxx-xx-7894 (not compliant) | 0 | laborer, common | o | | | | | | | | | \$15.75 | \$52.50 | | | | | | | |
| | | | s | | 5.00 | | | | | | 5.00 | 10.50 | \$52.50 | \$0.00 | \$0.00 | | | | \$52.50 | |
| Nelson Muntz xxx-xx-7895 (not compliant) | 0 | day labor or contract labor | o | | | | | | | | | \$18.00 | \$96.00 | | | | | | | |
| | | | s | | 8.00 | | | | | | 8.00 | 12.00 | \$96.00 | \$0.00 | \$0.00 | | | | \$96.00 | |
| Philip J. Fry xxx-xx-5685 (not compliant) | 1 | pipelayer helper | o | | | | | | | | | \$15.75 | \$420.00 | | | | | | | |
| | | | s | | 3.00 | 8.00 | 10.00 | 15.00 | 4.00 | | 40.00 | 10.50 | \$420.00 | \$35.87 | \$58.12 | | | \$93.99 | \$326.01 | |
| Carlos Luna xxx-xx-9770 (not compliant) | 2 | operator | o | | | | | | | | | \$20.99 | \$559.60 | | | | | | | |
| | | | s | | 8.00 | 8.00 | 8.00 | 8.00 | 8.00 | | 40.00 | 13.99 | \$559.60 | \$42.80 | \$75.30 | | | \$118.10 | \$441.50 | |
| Mohammed Ali xxx-xx-7000 (possibly not compliant) | 3 | apprentice electrician | o | | | | | | | | | \$26.03 | \$468.45 | | | | | | | |
| | | | s | | 6.00 | 8.00 | 4.00 | 8.00 | 1.00 | | 27.00 | 17.35 | \$1,800.00 | \$120.46 | \$258.97 | | | \$379.43 | \$1,420.57 | |

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room 93502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Date

I, _____ (Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the _____ (Contractor or Subcontractor)

_____ (Building or Work); that during the payroll period commencing on the

_____ day of _____, _____ and ending the _____ day of _____, _____

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full _____ (Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

| EXCEPTION (CRAFT) | EXPLANATION |
|-------------------|-------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

REMARKS:

NAME AND TITLE SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

COA EXPECTATIONS

- **Comply with the “Conditions of the Contract”**
 - Workers are classified accurately and paid appropriate prevailing wage
 - Workers are paid on time
 - Workers are paid time and one-half for overtime hours worked
 - Required posters are displayed on work site in a visible, accessible location
 - Payroll records and required forms are ***accurate, complete*** and retained for 3 years after completion of the contract

APPRENTICES: MUST BE REGISTERED WITH DOL

City contracts require apprentices to be enrolled in a US Department of Labor – recognized apprenticeship program, or to be paid full journeyman’s wage rates.

A State of Texas Apprentice License does not satisfy the requirement.

U.S. Department of Labor, Office of Apprenticeship

U.S. DEPARTMENT OF LABOR - OFFICE OF APPRENTICESHIP
APPRENTICESHIP CERTIFICATION

John Doe
505 Barton Springs Rd
Austin, TX 78704

The following individuals are apprentices registered with the U.S. Department of Labor, Office of Apprenticeship, under the sponsorship of Program Number TX000970005:

CENTEX I.E.C.
8868 Research Blvd, STE 502
AUSTIN, TX 78758

| APPRENTICE ID | SSN | APPRENTICE NAME | OCCUPATION | DATE APPRENTICESHIP BEGAN | DATE CANCELLED (If applicable) | DATE COMPLETED (If applicable) |
|---------------|----------|-----------------|-------------|---------------------------|--------------------------------|--------------------------------|
| | ****6864 | | | | | |
| | ****0882 | | ELECTRICIAN | 11/02/2012 | | |
| | | | ELECTRICIAN | 07/09/2013 | | |

ISSUES LEADING TO NON-COMPLIANCE

- Contractor failed to pay employee proper wages due to misclassification of duties
- Contractor paid straight time for overtime hours worked or failed to pay full prevailing wage including fringe benefits
- Contractor allowed employees to work under more than one classification without recording time under each classification or without paying the highest wage rate of the multiple classifications

ISSUES LEADING TO NON-COMPLIANCE

- Contractor failed to provide documents to Owner within (2) working days of request
- Apprentices were not registered in a DOL- approved apprenticeship program and program documents not provided
- Contractor failed to maintain weekly payroll reports, compliance statements, and other documentation, including documentation from subcontractors
- Contractor failed to display required Postings on job site

VOLUNTARY CORRECTIVE ACTION PLAN (VCAP)

- Issued to note findings and direct specific corrective actions
- Allow contractors the opportunity to respond to determined violations and/or provide additional documentation to support their position – if justified, finding is rescinded
- Additional time may be granted to perform corrective action; if still not resolved, sanctions and penalties may be enforced upon the Prime (General Contractor)

SANCTIONS AND PENALTIES

- **What happens if a Contractor violates the Conditions of the Contract?**
 - Funds may be withheld from Prime Contractor until back wages are paid.
 - A Contractor or Subcontractor who violates their contract may be fined \$60 per worker for each calendar day that a worker is paid less than the wage rates in the contract, in addition to paying any back wages due.
 - Confirmed Retaliation against employees who provide information during an interview or investigation on wages received may result in suspension or debarment from consideration of award on future City projects.

WRAP-UP

Remember:

- Wage rates and payroll reporting requirements apply to contractors and subcontractors on COA federally-funded and non-federally funded projects
- Workers on COA Projects shall be paid not less than total wage rates listed in the contract
- Wage rates shall be used throughout the duration of the Contract. Wage rates shall be posted by contractor at sites(s) of Work in prominent, easily accessible places where they can be seen by all workers
- Employees are required to be paid one and one-half the basic rate of pay for all hours in excess of (40) forty hours in such workweek
- Apprentices will be permitted to work as such only when they are registered, individually under a bonafide Apprenticeship or Trainee program registered with the Bureau of Apprenticeship and Training of United States Department of Labor (USDOL)
- Contractor shall keep payroll records as indicated in the contract
- CCO works collaboratively with the **contractor** and **PMs** to ensure prevailing wage compliance

WHO TO CONTACT



- **David Prado**
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- **Ivan Quiñones**
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QUESTIONS ?

