

Construction Contracting & Bidding Transparency Working Group

“COMPLIANCE, ENFORCEMENT, AND MONITORING”



**Connecticut Department of Labor
Wage and Workplace Standards Division**

Gary K. Pechie, Director

July 29, 2014

CTDOL Role on Public Works Projects

- **Primary mission is to enforce legally due wages**
- **Protect the public interest in the use of public funds**
- **Create collaborative efforts with all entities such as owners (state and municipalities) of public works, Dept. of Construction Services, building officials and construction companies to ensure compliance**
- **Educate all parties in their responsibilities on complying with state law**

C.G.S. Section 31-53

Enacted in 1933

- To ensure that the hourly wage commonly paid to construction workers in that area was maintained**
- To prevent the government low bid requirements from reducing the market price for labor to levels that would disrupt the local economy**

When is Prevailing Wage required?

- **Building, Heavy/Highway, Residential**
- **Public Works Projects contracted by the State, Political Subdivision, and their agents, for the benefit or use of the general Public**
- **\$400,000 - New construction**
- **\$100,000 - Remodeling, refinishing, refurbishing, rehabilitation, renovation, alteration, additions, and repair**
- **Prevailing Wage consists of two parts:
Base Hourly Rate + Fringe Benefit Rate**

Landmark Legislation In 1993

P.A. 93-392

- **Certified payrolls now required on public work projects**
- **Felony not to pay prevailing wage**
- **Civil penalties shall be assessed for violations of labor laws as a deterrent and to be used to fund additional staff**
- **Reciprocal agreements with other States**

Stop Work Legislation

- Public Act 07-89
- Public Act 07-89 went into effect October 1, 2007. Public Act 07-89 states that Any employer who (1)(A) knowingly misrepresents one or more employees as independent contractors, or (2)(B) knowingly provides false, incomplete or misleading information to such company concerning the number of employees, for the purpose of paying a lower premium on a policy obtained from such company, shall be guilty of a class D felony and shall be subject to a stop work order issued by the Labor Commissioner in accordance with section 31-76a, as amended.

Stop Work Compliance Issues

- **Failure to secure coverage**
- **Misclassifying an Employee as an independent contractor**
- **Understating or concealing payroll for the purpose of a lower premium**
- **Out of trade work being performed**
- **Failure to supply records as requested**

COMPLIANCE

- **Educational Seminars, one on one training**
- **Guide Books**
- **Informational Bulletins**
- **DOL Website**
- **Project Site Inspections**
 - **Labor Wage Checks**
- **Contractor audits/investigations**

ENFORCEMENT BY DOL since 1993

- **Issued over 29,000 project rate schedules**
- **Our primary focus is on compliance through enforcement and education**
- **Investigated and found over 4,000 contractors not paying the prevailing wages properly**
- **Over 28,000 workers received back pay totaling over \$37 million dollars**
- **Debarred 50 Contractors and 63 Individuals**
- **Criminally prosecuted 15 individuals**

Investigation Process

When a contractor is found in violation, DOL strives for voluntary restitution, if unsuccessful:

- **Request payment from upper level Sub, Prime, GC, CM, and/or Contracting Agency**
- **Negotiate Voluntary Debarment with full restitution**
- **Refer to Attorney General for civil action**
- **Proceed with Criminal Class D Felony Warrant**
- **Refer to Commissioner for Formal Debarment**

Typical Violations

- Certified Payrolls falsified to appear in compliance
- No Fringe Benefits provided and Fringe rate not paid
- All workers not listed on certified payrolls
- Failure to pay Full Prevailing Wage Rate
- Payroll checks not cleared bank (underpaid in CASH)
- Trade Misclassification based on work performed
- Pension contributions not paid into plan
- Under reporting the number of hours worked on certified payrolls
- Unlicensed workers, Unregistered apprentices
- Misclassification of worker as Independent Contractor

Monitoring Complications

- State Agency administered projects fail to request prevailing wage rates
- Construction industry has evolved from GC's to CM, CMR, and CA's holding original contract
 - 31-53 holds GC liable for ALL workers' wages
 - CM/CMR/CA deny liability or responsibility
 - CM/CMR/CA only responsible to collect certified payrolls
 - no Labor Wage Checks
 - no comparison of Certified Payrolls to Daily Work Reports, or Labor Wage Checks
 - Inadequate cooperation during investigation

CM/CMR/CA/GC do not maintain a complete list of ALL Primes and Subs on project

- Do not hold contract with lower Subs**
- No Sign-In Log or record of who is on site**

Out of State Contractors

- CM/CMR/CA not aware they are on site**
- work done, paid in full, no certified payrolls filed**
- No database to determine what other project they are working on**
- Fail to provide DOL records for investigation**
- Not registered to do business in State**

- **Lower Tier Subcontractors**
 - **work with no written contract or purchase order**
 - **no state and federal payroll reporting**
 - **no time cards, no payroll records, paid cash**
 - **undocumented workers**
- **DOL Forms not filed**
 - **Contracting Agency Certification Form**
 - **Contractor's Wage Certification Form**
recently revised to include
CMR, GC, and Prime

- **DOL contractor history database not utilized by contracting agency, CM, CMR, or CA at time of bidding, award, or during construction**
 - **CM/CMR/CA continue to utilize Subcontractors with prior history, repeated violations, and on-going investigations**
- **CTDCS – 6000 Bid Forms 02.08.12 Section 004515 Item 18 - Objective Criteria: Bidder not in violation of state / federal labor laws in past 5 years**
 - **Direct Bidders seldom employ Laborer and Mechanics on site – work is subcontracted out**
 - **Primes and Subcontractors' History not requested or required**

Conclusion

- **Only through an active and cooperative effort of all stakeholders in building quality construction projects will the playing field be level for all contractors, workers will get their proper wages and the public interest will be protected..**

DOL Resources

- Telephone: (860) 263-6542 or 263-6543
- Website: www.ct.gov/DOL

Guide to PW Laws in CT Book:

[/wgwkstnd/prevailing rates/PrevailingWageGuide/index.htm](http://www.ct.gov/dol/wgwkstnd/prevailing_rates/PrevailingWageGuide/index.htm)

Debarment Lists:

[/wgwkstnd/wgdisbar.htm](http://www.ct.gov/dol/wgwkstnd/wgdisbar.htm)

Additional informational and educational materials

- Conduct PW Seminars