

## **2021 Prevailing Wage Rates – Reminders for Compliance**

*By Nicole Elgin*

With the start of the new year brings new prevailing wage rates in Oregon. Those rates are available in [BOLI's report](#). Any time employers are dealing with prevailing wage rate changes, it is always a great opportunity to review the other requirements of Oregon's prevailing wage rate laws and best practices for business compliance.

As a reminder, prevailing wage is the minimum wage rate that must be paid to workers on a covered project and includes an hourly base rate plus fringe benefit rate. Oregon's prevailing wage rate laws generally apply to state or local public agency jobs involving construction, reconstruction, or renovation costing \$50,000 or more.

### **Get those posters up!**

*New Rates*

Every contractor and subcontractor engaged in work on a public works project must post the applicable prevailing wage rates for that project in an obvious place on the worksite so workers have ready access to the information.

*Details of Fringe Benefit Programs*

When a contractor or subcontractor provides or contributes to a health and welfare plan or a pension plan, or both, for employees who are working on a public works project, the details of all fringe benefit plans or programs must be posted on the worksite. The posting must include a description of the plan(s), information about how and where claims can be made, and where to obtain more information. The notice must be posted in an obvious place on the worksite, in the same location as the prevailing wage rates.

*Work Schedule*

Contractors and subcontractors must give workers the regular work schedule (days of the week and number of hours per day) in writing before beginning work on the project. The schedule can be provided at the time of hire, prior to starting work on the contract, or by posting the schedule in a location frequented by employees. If an employer does not 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 prevailing wage rate overtime requirements. The schedule is also important for determining daily overtime obligations!

**Did you know you can appeal a survey rate?**

Remember, employers can challenge or appeal survey rate determinations. To challenge or appeal a survey rate determination, you must submit a request in writing to the Labor Commissioner. The appeal must include: a complete description of the issue, including the affected trade(s), documentation or evidence (if available) supporting why the rate determination is incorrect, and recommendations for how the rate could be more accurately determined. The written appeal will be reviewed by the Wage and Hour Division, which will recommend to the Labor Commissioner a course of action and proposed time frame for addressing the issue. The Labor Commissioner then reviews the Division's recommendation and either approves, disapproves, or modifies the recommendation.

**Take extra care with apprentices!**

On prevailing wage rate jobs, apprentices must be "bona fide." That means they must: be a registered apprentice, be performing work within their trade, be working in the correct ratio to journeymen, and their employer must be a registered training agent. If an apprentice is working out of ratio, they must be paid the full prevailing wage rate. Plus, if there are not enough journeymen for all apprentices to be working in ratio, then all apprentices must be paid the full prevailing wage rate for the time they are working out of ratio.

**Remember that federal jobs are different.**

If the job is for the federal government, remember that different prevailing wage rate laws apply. If the job is covered by federal and state prevailing wage laws, employers are required to comply with the requirements of both the state and federal laws and pay the higher prevailing wage rate of the two.

**Take advantage of resources!**

If the prevailing wage rate rules feel overwhelming – that's because they can be! Sometimes just determining the correct rate is a challenge. Oregon's Bureau of Labor and Industries offers periodic training to contractors on prevailing wage rate rules. Employers can sign up [here](#).

*If employers have specific questions about prevailing wage rate rules and regulations, you can also contact labor and employment attorney Nicole Elgin at [nelgin@barran.com](mailto:nelgin@barran.com).*