RESPONSIBILITIES OF THE CONTRACTING AGENCY

A Contracting Agency (Department of Jurisdiction) includes:

- A state department, agency, board or commission
- A county, city, town or village
- A school district, board of education or board of cooperative educational services
- A sewer, water, fire, improvement and other district corporation
- A public benefit corporation
- A public authority awarding a public work contract

The Contracting Agency awarding a public work contract must obtain a Prevailing Rate Schedule listing the hourly rates of wages and supplements due the workers employed on a public work project. To obtain a schedule, submit by mail, fax, or online, a "Request for Wage and Supplement Information" form (PW-39) to the Bureau of Public Work. The Prevailing Rate Schedule must be included in the specifications for the contract to be awarded and is deemed part of the public work contract.

After the award of a contract, by law the Contracting Agency must furnish the following information to the Bureau:

- The name and address of the contractor
- The date the contract was awarded
- The approximate dollar value of the contract

To aid compliance with this provision of the Labor Law, a copy of the Department of Labor's "Notice of Contract Award" form (PW-16) is included with the original Prevailing Rate Schedule, and can also be submitted online.

The Contracting Agency must notify the Bureau of the completion or cancellation of any public work project. The Department of Labor's "Notice of Completion/ Cancellation of Project" form (PW-200) is included with the original Prevailing Rate Schedule, and can also be submitted online.

HOURS

No laborer, worker, or mechanic in the employ of a contractor or subcontractor engaged in the performance of any public work project shall be permitted to work more than eight hours in any day or more than five days in any week, except in cases of extraordinary emergency.

PREVAILING RATE SCHEDULE

The Contracting Agency must provide complete copies of the Prevailing Rate Schedule to all prime contractors. They, in turn, must provide copies to each subcontractor and obtain an affidavit certifying the schedule was received.

The Commissioner of Labor makes an annual determination of the prevailing rates. This determination is in effect from July 1 through June 30 of the following year. All assigned Prevailing Rate Schedules automatically update to the newly determined annual rates on July 1.

Both the annual determination and the updated assigned Prevailing Rate Schedules are available on the Department of Labor web site: **www.labor.ny.gov**

OSHA 10-HOUR COURSE

All workers on public work projects of at least $250,000 are required to have taken this safety course. The provisions of this requirement must be included in the bid and contract documents.

PAYROLLS AND PAYROLL RECORDS

Every contractor and subcontractor must keep original payrolls or transcripts subscribed and affirmed as true under penalty of perjury.

At a minimum, payrolls must show the following information for each person employed on a public work project:

- Name
- Social Security Number (last four digits)
- Classification(s) in which the worker was employed
- Hourly wage rate(s) paid
- Supplements paid or provided
- Daily and weekly number of hours worked in each classification

ELECTRONIC PAYROLL RECORDS

Employers are now required to submit certified payroll records directly to the Department for each week worked via the electronic certified payroll reporting system. The employer's submission of certified payrolls is a condition of payment. The employer must keep original certified payroll records for not less than six years (Per Art. 6, Sect 195 (4) of NYS Labor Law).

For more information and links to the system visit:
https://dol.ny.gov/Electronic-Payroll

The filing of payrolls is a condition of payment. The prime contractor is responsible for any underpayments of prevailing wages or supplements by any subcontractor.

All contractors or their subcontractors shall provide to their subcontractors a copy of the Prevailing Rate Schedule specified in the public work contract.

The Contracting Agency is still responsible for reviewing payrolls for facial validity.

CONTRACTOR REGISTRATION

All contractors and subcontractors submitting bids or performing construction work on public work projects or private projects covered by Article 8 of the Labor Law are required to register with the New York State Department of Labor (NYSDOL) under Labor Law Section 220-i.

Labor Law Section 220-i(6) prohibits contractors from bidding on public work and subcontractors from commencing work unless the contractor or subcontractor is registered with NYSDOL. This section requires contractors to submit their Certificate of Registration with their bid materials. NYSDOL recommends adding a requirement to all solicitations for bids or project announcements that contractors are required to provide proof of registration as required by Labor Law Section 220-i as a minimum qualification and that failure to provide proof of registration will disqualify a bidder. NYSDOL also recommends adding language to contracts to ensure that subcontractors are registered as required by Labor Law Section 220-I before commencing work on a covered project. Each Certificate of Registration will have a unique registration number.

For more information and links to the registry lookup, visit:
https://dol.ny.gov/public-work-contractor-and-subcontractor-registry-landing

WITHHOLDINGS

The Contracting Agency is required to withhold and retain funds when directed by the Bureau. The funds may not be released until notified by the Bureau.

CONTACT INFORMATION

New York State Department of Labor
888-469-7365
www.labor.ny.gov

The New York State Department of Labor is an Equal Opportunity Employer/Program.
Auxiliary aides and services are available upon request and free of charge to individuals with disabilities TTY/TDD 711 or 1-800-662-1220 (English) / 1-877-662-4886.