

NOTIFICATION OF PAYROLL VIOLATION

NOTIFICATION TO CONTRACTOR AND FEDERAL HIGHWAY ADMINISTRATION (FHWA) OF NON-COMPLIANCE WITH THE WORK HOURS ACT OF 1962 AND OTHER RELATED ACTS, REGULATION AND CONTRACT TERMS BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND CONTRACTOR

TO: Name and Address of Prime Contractor

Name and Address of Subcontractor

In accordance with applicable FHWA regulations, laws, and construction contract referred to above, you are hereby notified of the following non-compliance with their provisions and respect to payment of employees in the performance of contract work on the following State and Federal Projects(s):

Financial Project / Contract Number

Federal Project Number

The (Prime) (Subcontractor) payroll listing for the week ending (_____) (U.S. Department of Labor Form WH-347 (1/88) or similar form) contains the following listed violations occurring during this payroll period:

Employee's Name (Last Name and Initials)	Violation (See Reverse Side) Code Date(s) / Day(s)	Total Hours Improperly Paid	Additional Gross Wages Due	Penalty (Code 1 Only)	Violation Total
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(If additional space is required, attach continuation sheet) TOTALS: _____

If a penalty has not been assessed (see above*) this is a request for additional information. A supplemental payroll must be submitted within 20 days of the date shown below; otherwise progress payments may be withheld.

If wages and penalty have been withheld this notification of non-compliance is being transmitted to the FHWA Administrator for further determination and review only if FDOT and Contractor cannot come to a resolution. The decision of the Division Administrator of the FHWA or his designee is final and binding on the State of Florida Department of Transportation and Contractor alike, subject to the Contractor's right of appeal as set forth below. Therefore the total amount of additional wages due and penalties have been withheld from progress or final payment on this contract pending final determination by the FHWA and/or appeal by the Contractor. Any appeal from the finding of fact and determinations of the FHWA must be filed within 60 days from the date of the withholding of funds on this contract. The 60 days begin with the date on which this formal notice of the withholding of funds is received by the Contractor. The aggrieved Contractor or Subcontractor shall have the right to appeal to the Federal Highway Administrator, the Secretary of Labor, and/or the Court of Claims. Such appeals must be submitted through the State of Florida Department of Transportation who will make proper distribution.

Comments:

State of Florida
Department of Transportation
Resident Compliance Specialist

Date

State of Florida
Department of Transportation
Resident Engineer (or designee)

Date

VIOLATION TYPE

The violation numbers cited on the front of this form are explained below:

Violation Code Number	Violation Code Description	Violation Code Action
1	Time and one-half rates were not paid for work performed in excess of 40 hours per week. (Wage differences and penalty* are withheld.)	Formal notification may be sent to Federal Highway Administration (See Note Below)
3 4 5	Improper classification. Employees observed assigned to work involving classifications other than those included on payroll listing. (Wage differences not withheld if supplemental payroll received within 20 days.) Hourly rate paid is less than minimum authorized wage rate for the classification of work shown and included in the construction contract. (Wage differences not withheld if supplemental payroll received within 20 days.) The Certified Payroll contains mathematical errors that indicate payment, made to the employee(s) by the Contractor for hours worked, violated the Federal-Aid labor provisions (Davis Bacon Act/Copeland Act) of the contract. (Wage differences not withheld if certified supplemental payroll correcting this infraction is received within twenty days.) Wage rate violations shall not be issued for mathematical errors or minor computer payroll program rounding errors that do not violate the contract Federal-Aid labor provisions. However, the Contractor shall be notified in writing of such errors.	Additional Information requested from Contractor indicating clarification or correction of violations cited
6 7	Unauthorized payroll deductions were made in violation of applicable regulations. Other violation not listed above. (Explain in comments section on front of form, or in letter of transmittal to Contractor.)	In accordance with regulations
*NOTE:	In addition to monies withheld for wage differences, a penalty of \$10.00 per violation per day that the affected employee was not paid overtime for work performed in excess of 40 hours per week shall be assessed for each employee within any one payroll week. Monies withheld for wage differences under Violation Code 1 shall be returned to the Contractor upon receipt of a supplemental certified payroll, by the District Construction Engineer's Office, citing that the indicated payroll violation(s) has been corrected and receipt of Contractor's proof of payment for the amount owed, with the affected employee's signature. The decision of the Division Administrator of the FHWA or his designee is final regarding the release of penalty monies withheld for Violation Code 1. (Supplemental payrolls requested under Violation Codes 3 thru 7 must be forwarded to the Resident Engineer's Office.)	
*NOTE:	If wages and penalty have been withheld, this notification of non-compliance is being transmitted to the FHWA Administrator for further determination and review only if FDOT and Contractor cannot come to a resolution. The decision of the Division Administrator of the FHWA or his designee is final and binding on the State of Florida Department of Transportation and Contractor alike, subject to the Contractor's right of appeal as set forth below. Therefore the total amount of additional wages due and penalties have been withheld from progress or final payment on this contract pending final determination by the FHWA and/or appeal by the Contractor. Any appeal from the finding of fact and determinations of the FHWA must be filed within 60 days from the date of the withholding of funds on this contract. The 60 days begin with the date on which this formal notice of the withholding of funds is received by the Contractor. The aggrieved Contractor or Subcontractor shall have the right of appeal to the Federal Highway Administrator, the Secretary of Labor, and /or the Court of Claims. Such appeals must be submitted through the State of Florida Department of Transportation who will make proper distribution.	