

Chapter 6

WAGES AND PAYROLLS

Table of Contents

6.1 GENERAL INFORMATION

- 6.1.1 Purpose
- 6.1.2 Scope
- 6.1.3 Florida's Minimum Wage
- 6.1.4 Requirements

6.2 GENERAL WAGE DETERMINATIONS

- 6.2.1 Purpose
- 6.2.2 Types of Wage Determinations
- 6.2.3 Fringe Benefits Required in a Wage Determination
- 6.2.4 Posting Requirements

6.3 REQUESTING ADDITIONAL WAGE CLASSIFICATIONS

- 6.3.1 Purpose
- 6.3.2 Requirements and Process
- 6.3.3 Wage Payments While Awaiting Additional Classification Decision
- 6.3.4 The Additional Classification Request Form
- 6.3.5 Directions for Completing the Additional Classification Request Form
(Form No. 700-010-07)

6.4 EMPLOYEE LABOR/EEO INTERVIEWS

- 6.4.1 Purpose
- 6.4.2 Overview
- 6.4.3 Monthly Interview Requirements
 - Attachment 6.4.3 Minimum Number of Monthly Employee Labor/EEO Interviews
- 6.4.4 Directions for Completing the Employee Interview Report
Labor/EEO Compliance (Form No. 700-010-63)

6.5 PAYROLLS

- 6.5.1 Purpose
- 6.5.2 Payroll Reporting Requirements
 - Table 6.5.3 Race and Sex Abbreviations
- 6.5.3 Deductions
 - Table 6.5.4.1 Deductions Generally Allowed Without Contractor Application to or Permission from the US Dept. of Labor
 - Table 6.5.4.2 Four Criteria Required by US Dept. of Labor in Granting Permission for Other Deductions
- 6.5.4 Requesting US Dept. of Labor Permission for Deductions
- 6.6.5 Overtime
- 6.6.6 Classifications
- 6.5.7 Work in More than One Classification
- 6.5.8 Working Foremen/women
- 6.5.9 Independent Contractors
- 6.5.10 Time Frame for Submittal of Payrolls
- 6.5.11 Statements of Compliance
- 6.5.12 Directions for Completing the Payroll form (No. 700-010-69)

6.6 NOTIFICATION OF PAYROLL VIOLATION

- 6.6.1 Purpose
- 6.6.2 Violation Types
 - Table 6.6.2 Payroll Violation Codes
- 6.6.3 Correction Requirements

6.7 WAGE SURVEYS

- 6.7.1 Purpose and Overview
- 6.7.2 Requirements
- 6.7.3 Data Collection

Section 6.1

GENERAL INFORMATION

6.1.1 Purpose

Contractors that perform work on Davis-Bacon Act (DBA) covered projects must pay wages in accordance with those predetermined by the Secretary of the United States Department of Labor (USDOL). This Chapter of the workbook offers guidance and information surrounding the requirements of payment of predetermined wages, record keeping and overtime requirements. Contracting agencies must monitor and keep records of payments to employees as required by law.

Additionally, this Chapter provides a uniform process for reviewing and processing Contractor payroll submittals, conducting labor interviews, issuing violations and adding wage classifications to the contract. Included is information concerning other labor laws and regulations which may be applicable

6.1.2 Scope

Contract wage requirements are included in every federally funded FDOT construction contract award of \$2,000 or more. These requirements apply to the prime and every level (tier) of subcontracts, regardless of the amount of the subcontract.

The “government contract acts” (Davis-Bacon Act, the Copeland Act and the Contract Work Hours and Safety Standards Act) regulate: payment of wages, record keeping, and overtime pay respectively on these contracts. Compliance with these “government contract acts” is enforced on a day-to-day basis by the FDOT, as the contracting agency.

FDOT contract data which directs compliance with the “government contract acts” include FHWA 1273, “Required Contract Provisions Federal Aid Construction Contracts” and contract Section 7, Legal Requirements and Responsibility to the Public, Sub article 7-16, “Wage Rate for Federal Aid Projects”. A Special Provision is added to each Federal Aid contract to specify the appropriate Wage Rate decision(s).

Non-Federally funded projects are governed by the Fair Labor Standards Act (FLSA) which requires a minimum wage , overtime pay and child labor standards be met. FLSA is enforced directly by the USDOL. The Minimum Wage rates are:

Effective Date Begins:	FLSA Minimum Wage
July 24, 2008	\$ 6.55
July 24, 2007	\$ 5.85

Guidance for FDOT's in house procedures for monitoring this area of compliance is contained in the latest version of the Construction Project Administration Manual (CPAM).

6.1.3 Florida Minimum Wage

The State of Florida has a minimum wage law for hours worked in Florida. This rate is reviewed annually for adjustment with a new rate typically in effect January 1 of each year. Florida's minimum wage effective Jan. 1, 2008 is \$6.79 per hour. (As a reference, the prior rates were: \$6.15/hr. for the period 5/2/05-12/31/05, \$6.40 for calendar year 2006, and \$6.67 for calendar year 2007).

Effective Date Begins:	Florida Minimum Wage
January 1, 2008	\$ 6.79
January 1, 2007	\$ 6.67

Florida's minimum wage law applies to workers on all FDOT construction projects; Federal-funded and State (Non-FAP) funded.

On Federal-funded construction projects, where the Florida minimum wage is higher than a required minimum rate on a Wage Determination, the Florida minimum must be paid.

Compliance personnel on FDOT Federally funded construction projects will not issue a Notification of Payroll Violation (form 700-010-59) in the event workers are paid less than Florida's minimum. Compliance personnel will, however, issue letters to the contractor advising of the infraction which is a violation of contract Section 7, Legal Requirements and Responsibility to the Public, Sub article 7-1, Laws to Be Observed, , 7-1,1, General: "Become familiar with and comply with all Federal, State, County and City Laws, etc".

6.1.4 Requirements

The following elements comprise the contractor's responsibility involving wage compliance for Federal Aid contracts:

In addition to the following, the prime contractor, as outlined in 6.3 Requesting Additional Wage Classifications, must request approval of classifications and wage rates for classifications of work not covered by these WDs.

Record keeping – Contractors must submit weekly-certified payrolls and statements of compliance as required. Payrolls and basic records relating thereto shall be maintained by the Contractor/subcontractor during the course of the work and preserved as required.

Overtime payments – All overtime hours (all those over 40 in a workweek) shall be paid at rates no less than 1.5 times the employee's basic rate of pay. Contractors are required to pay “laborers or mechanics” overtime for any hours over 40 in a workweek.

Deductions – Pursuant to the Copeland Act, any deduction from employee pay must meet specified requirements and the contractor/subcontractor must request and receive USDOL approval for payroll deductions unless such deductions are specifically listed as not needing such approval (see Table 6.5.3.1 for listing). Deductions from employee pay must conform to the requirements of the Copeland Act, including documented approval where required.

Section 6.2

General Wage Determinations

6.2.1 Purpose

General Wage Determinations (also known as wage tables, wage decisions, or WDs) are the document(s), which contain predetermined wages set by USDOL. They may or may not contain fringe benefits in addition to the basic rates of pay for individual classifications. Once assigned to a contract, this WD(s) will not change for the life of the contract, unless major changes happen to the scope of the contract work. The most current version (modification) of the wage table(s) (specified in the contract special provisions) is “locked in” at a date 10 days before the letting date. This is known as the “10 day rule”. For example, if a wage table is modified by USDOL with a publication date that is 10 calendar days before the letting date for the project, then that is the correct version to use. If it is modified with a publication date 9 calendar days or less, before the letting, then the previous version would be used.

6.2.2 Types of Wage Determinations

Wage Determinations will carry a title, which identifies the state, year and number of the WD.

For example:

“General Wage Decision Number FL020001”. FL – state, 02 – year and 0001 is the number signifying the area the table is effective and the type of construction that it covers. In this case 0001 is Building Construction for Dade County.

There are four (4) major types of construction addressed on these WDs. They are:

Highway – this is used for most of FDOT’s projects. It includes the construction of roads, small bridges, bridges not over commercially navigable waterways, taxiways in airports, parking lots which are not incidental to building construction, and storm sewers/drainage work which are incidental to road construction.

Heavy – this category is one of a “catch all” nature. It includes those types, which are not covered by the other three categories. FDOT projects, which contain these, are mostly large marine bridges over commercially navigable waterways and sewage treatment plants for rest areas. Other examples of this type of construction are dams, powerhouses, railroad construction, tunnels and others.

Building – covers most any building structure except those that are residential in nature that are 4 stories or less.

Residential – includes construction of all single family or apartment buildings designed which are not over 4 stories high.

Note that in the above definitions, the examples given for the types of construction are only some of the examples given by USDOL. Sometimes when other types of construction are encountered, a decision is required by USDOL to determine the proper wage table(s) for the project.

If there is any doubt as to the applicability of any wage determination, the District Contract Compliance Manager and the Prevailing Wage Rate Coordinator (PWRC) should be contacted. If necessary the PWRC will contact USDOL for guidance.

6.2.3 Fringe Benefits Required in a Wage Determination

Some Wage Determinations ('WD') state a Fringe Benefit requirement which is specific to a classification. When the WD requires fringe benefits, the contractor may pay the basic hourly rate in cash and provide bona fide fringe benefits in the amount required or pay the sum of the basic hourly rate plus the fringe benefit in cash. Some of the bona fide fringe benefits allowed by law include; life insurance, health insurance, pension, vacation, holidays and sick leave. Any deduction required by law such as taxes, social security, worker's compensation or unemployment compensation cannot be counted as a fringe benefit.

Fringe Benefits required by a WD must be paid for each hour worked; however, they are excluded from the additional half-time overtime premium.

An example of the alternatives for satisfying the minimum payment requirement follows:

General Decision Number FL 2003xxxxx		
CLASSIFICATION	RATE	FRINGE
Backhoe Operator	\$9.99	\$2.00

In this example, the minimum payment requirement for this classification can be satisfied by paying either;

\$11.99 per hour in cash (\$9.99+\$2.00)

Or \$ 9.99 per hour in cash and providing \$2.00 per hour in bona fide fringe benefits.

The payment may be made in cash by combining the required hourly rate of pay plus the required fringe benefit amount, or by paying the hourly rate plus providing the employee bona fide fringe benefits equal to the amounts shown.

6.2.4 Posting Requirements

Requirements for the contractor include posting of the correct WD(s) (and any classifications added by the request procedure) on the job site bulletin board. A copy of the appropriate table(s) shall be obtained from the Department's website.

Section 6.3

Requesting Additional Wage Classifications

6.3.1 Purpose

Requesting an additional wage classification is the process which allows a classification to be added to a Wage Determination (wage table) on a project-by-project basis. USDOL refers to this request as a 'conformance'.

When a classification is approved it is only valid for the particular project on which it was requested. Blanket coverage to other projects is not allowed by the present regulations.

Requesting additional wage classifications is a process which is required when the wage table(s) assigned to a project, do(es) not include classifications needed to perform the project's work.

6.3.2 Requirements and Process

It is the prime contractor's responsibility to submit additional classification requests for their firm and all subcontractors on the project. Form No. 700-010-07, Additional Classification - Request Form is provided for this purpose. Contractors may recreate this form to expedite filling out required information and making it compatible to email. The file may be MS Excel, MS Word, or an Adobe PDF. However, all information and general appearance of the form must be similar. All signatures must be handwritten or be a handwritten signature scanned and inserted into the document. Example: using a typewritten electronic script font in place of a handwritten signature is not acceptable.

The prime contractor faxes (or scans and emails) the form to the PWRC (Prevailing Wage Rate Coordinator) and faxes/scans a copy to the project Resident Compliance Specialist. The prime contractor shall keep the original request in their files.

The PWRC evaluates the request and issues a letter to the contractor and copies the DCCM (District Contract Compliance Manager) advising whether or not the State Construction Office agrees with the submitted request. If appropriate, the request, the PWRC's letter and the WD(s) for the project are submitted to USDOL for a decision.

Upon receiving approval by the USDOL, the PWRC sends a letter noting approval to the contractor and the DCCM. USDOL's response letter is sent only when there is a denial or modification to the original request.

The DCCM is responsible for forwarding a copy of this transmittal to the project's Resident Compliance Specialist.

It is the contractor's responsibility to post any added wage classifications and rates on the project. The Additional Federal Wage Rate Decisions (Form No. 700-010-67) is provided to make posting this information on the project bulletin board easier. The final approval letter issued by the PWRC (and the copy of the USDOL response letter if applicable) for each classification must be kept by the contractor in his/her project files for verification of those posted rates.

Compliance personnel may track the progress of a request in the Wage Rate System, which is presently a part of CARS Option 5. This is an internal FDOT system. Access to this system must be requested from the State Construction Office, System Support Section. RCS access should be coordinated through the District Compliance Office.

6.3.3 Wage Payment while Awaiting Additional Classification Decision

Contractors are to make every good faith effort to submit and obtain Additional Classification decisions prior to the time when such workers will appear on the project.

If an "Additional Wage Classification" has been requested, but a response has not been received, the contractor may include the additional classification on the certified payroll and pay at least the minimum amount indicated in their request documentation.

Once the wage decision of the US Department of Labor has been received, the contractor must retroactively make any pay adjustments if the rates approved are other than the requested rates. In the event the response indicates that the work is included in that of an existing classification, the contractor is to begin immediately using the indicated classification and must retroactively pay any difference in rate resulting from this decision.

6.3.4 The Additional Classification Request Form

The Additional Classification – Request Form is provided for use by the contractor. The prime contractor shall submit the form when the work of a craft is required but that craft is not included in the Federal Wage Rate Table(s) that is (are) assigned to the contract.

6.3.5 Directions for Completing the Additional Classification Request Form (Form No. 700-010-07)

The completed form should contain all contractor information, including address, phone number etc., project information, WD that classification(s) are being requested on, the classification(s) title, the actual job duties that will be performed, a suggested minimum amount that the contractor/subcontractor will pay these employees and the name of the contractor's representative signed and printed clearly.

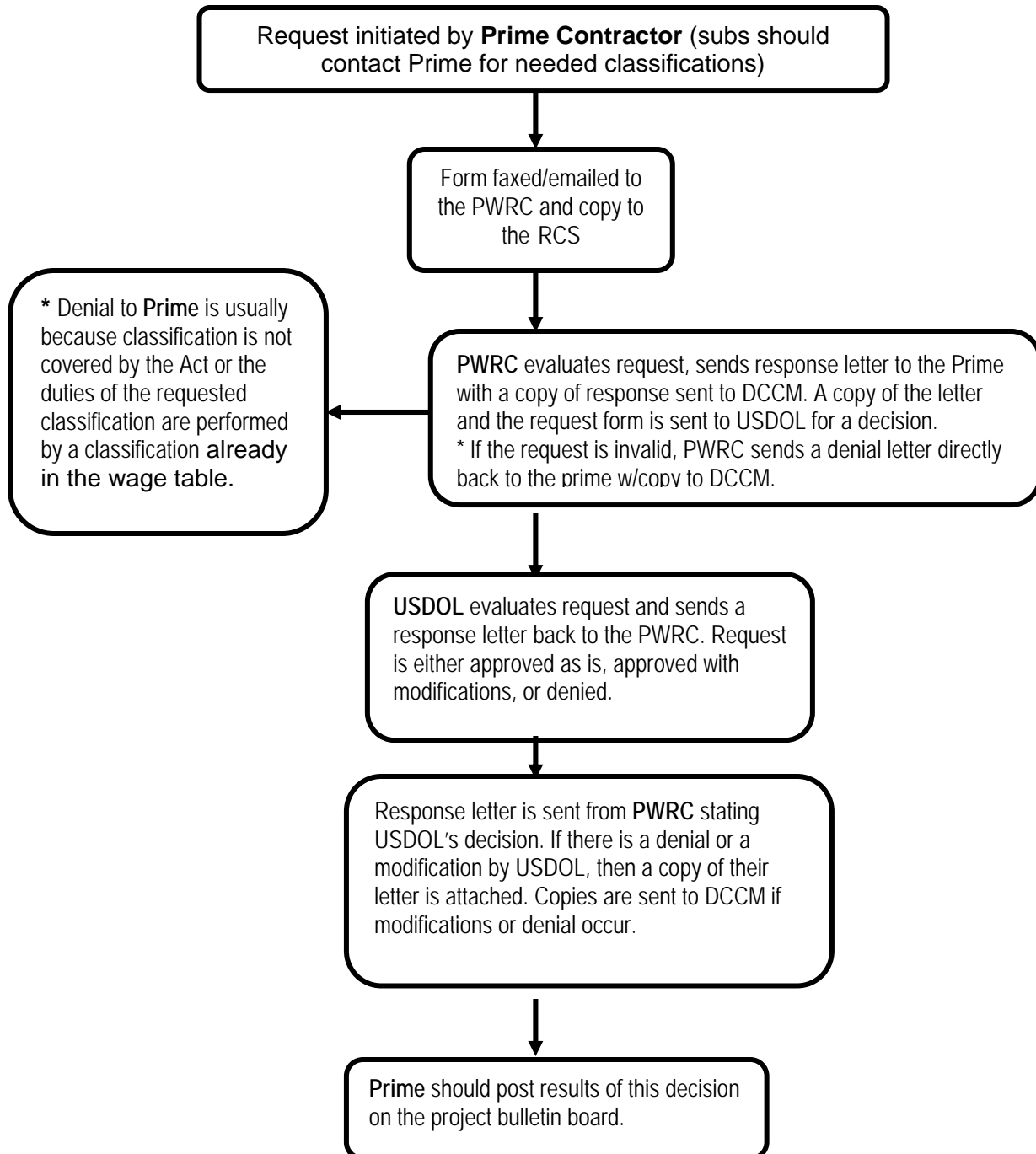
Special care should be taken to ensure that the project's correct wage decision (WD) number and modification date are shown on the form. If a project has more than one WD, the form should indicate which table to which the additional classification pertains. Do not combine requests for classifications on more than one table on the same form.

Example: if a Carpenter is being requested for two different tables on the same project, then a form for each should be completed.

Forms that are not properly filled out or are incomplete may be returned.

The following example shows where the Wage Decision Number and Modification Date are shown on the wage table and where they are posted in the Additional Classification request

Flow Chart for Requesting Additional Classifications



Section 6.4

Employee Labor/EEO Interviews

6.4.1 Purpose

To fulfill the contracting agency's (FDOT's) requirement to monitor payments made on Federal Aid Construction projects, the following procedures have been developed for interviewing employees for proper classification, wage payment, and Equal Employment Opportunity purposes.

6.4.2 Overview

The Employee Interview Report - Labor/EEO Compliance, (Form No. 700-010-63), is provided to document interview results of a cross section of employees based on the dollar amount of the contract. Interviews are conducted monthly on a random basis and seek to interview a wide range of laborers and mechanics for labor and EEO compliance criteria. "Laborers and mechanics" is a general term used to mean all construction employees on the project performing labor or craft work as opposed to managerial or technical work. Note: For EEO purposes, other personnel such as foremen working on the project should be interviewed.

6.4.3 Monthly Interview Requirements

Representatives of FDOT and other agencies may interview employees to affirm compliance with requirements. Contractors and subcontractors are required to ensure that employees may be interviewed on the project during work hours.

The Resident Compliance Specialist ensures that the required minimum number of Labor/EEO interviews, based on the contract's dollar amount, are completed each month on a cross-section of active contractors and a diversity of workers. Table 6.4.3 summarizes the minimum number of monthly interviews. Additional interviews above the minimum may be conducted when deemed necessary.

Data collected in interviews is compared to Certified Payroll records, EEO data and other compliance-related information to evaluate compliance. The Resident Compliance Specialist takes action to resolve discrepancies identified during interviews. Actions which may be taken include, but are not limited to: issuance of Payroll Violations, Notices of Non Compliance, obtaining copies of payroll checks, copies of EEO-related records, etc.

**Table 6.4.3
 Minimum Number of Monthly Employee Labor/EEO Interviews**

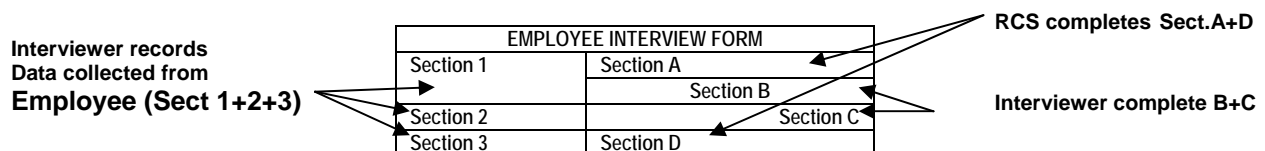
Original Contract Amount	Required Minimum Number of Interviews per Month
Under \$ 1,000,000	2
Over \$1,000,000 - \$3,000,000	3
Over \$3,000,000 - \$5,000,000	4
Over \$5,000,000 - \$10,000,000	5
Over \$10,000,000 - \$15,000,000	6
Over \$15,000,000 - \$20,000,000	7
Over \$20,000,000	8

6.4.4 Directions for Completing the Employee Interview Report – Labor/EEO Compliance (Form No. 700-010-63)

GENERAL

Data is collected by observing and communicating with project workers and it is recorded on this form to assist in determining EEO and payroll compliance.

On the left side (Sections 1, 2, and 3) the Interviewer records data collected from the employee. On the right side (Sections A, B, C and D) data is recorded by the Resident Compliance Specialist (RCS) and Interviewer.



Information recorded on the Employee Interview Form is to be kept confidential and separate from standard Compliance program records.

Section A- PROJECT IDENTITY SUPPLIED BY RCS

The RCS completes this section before giving the form to the Interviewer. Note that these items can be filled in on the computer when the form is downloaded.

- A. Financial Project No. – The Florida Department of Transportation's Financial Project Number;
- B. F.A.P. Number – The Federal Aid Project Number assigned to federally funded projects;
- C. Prime Contractor- Name of Prime.

Section B-INTERVIEWER'S IDENTIFICATION

This is the first section that the Interviewer completes.

- D. Interviewer's Name;
- E. Interviewers' Employee: FDOT or the main CCEI firm on the project;
- F. Date of interview: Month/Day /year.

Section C-INTERVIEWER'S OBSERVATION

The Interviewer completes this section before speaking with the employee and before performing the interview. The data provided is based on what the interviewer observes just prior to the interview.

G. Describe the work at the time of the interview (e.g. digging trench for placement of pipe);

H. Name hand tools the employee was using: OR mark 'No tools' if none used. Include motorized and manual tools;

I. Name equipment the employee was operation: OR mark 'No Equip' if none operated. Name the specific piece of equipment;

J. What is the proper classification for this work? The interviewer's opinion as to correct classification - use proper classification names like those found on Wage Tables.

Optional 2nd Observation Same Day. A second observation of the employee's work during the day of the interview is helpful. If one cannot be done, mark 'No 2nd Observ'.

K. Was 2nd observation of work, tools & equipment same as previous? Mark yes or No. If YES, continue with question L, M, N, and O. If no, go to Section 1;

L. Describe employee's work at the time of second observation e.g. digging trench for placement of pipe);

M. Tools used OR mark 'No tools' if none used;

N. Equipment Operated? OR mark 'No Equip' if none operated;

O. What is the proper classification for this work? The interviewer's opinion as to correct classification - use proper classification names as found on Wage Tables.

Section 1- IDENTITY DATA SUPPLIED BY EMPLOYEE

The interviewer records the answers supplied by the employee.

1. Employee: Print First and last name & have employee sign below their name;

2. Employed by: name of the contractor or temporary agency the employee is working for;

3. Social Security No.: Employee's full social security number or Last 4 digits of social security number;

4. How long with Company? Months and/or years employee has worked for company;

5. How long on this project? Months and or years employee has worked on this project;

6. Employee Sex: Record male or female based on observation;

7. Employee Race: Record the race with which the employee identifies.

Section 2- JOB & PAY DATA SUPPLIED BY EMPLOYEE

The interviewer records the answers supplied by the employee.

8. Describe the work you have done today? Employee's statement of work performed;

9. What tools have you used today? Employee' statement of tools used;

10. What equipment have you operated today? Employee's statement of equipment used;

11. What is your job classification? Employee's statement of their job title/class;

12. What is your hourly pay rate? Employee's statement of their hourly pay rate(s);

13. How often are you paid? Employee's statement of pay frequency (e.g. each week, every Friday, etc);

14. Are you paid time and half for hours worked over 40 in a week?;

15. Was your first hardhat, vest, gloves, etc (safety equipment) given free with no charge to you?;

16. Are there deductions from your check other than taxes?;

17. Did you pay someone to get this job/ do you pay anyone to keep it?

Section 3- EEO DATA SUPPLIED BY EMPLOYEE

The interviewer records the answers supplied by the employee.

18. Are all company buildings and services open to all employees regardless of race or sex? Determine if the employee's sex or race prevents use of services or results in separate segregated facilities;
19. Are you treated fairly without regard for your race or sex? Determine if discriminatory treatment is occurring;
20. Have you been informed of your company's EEO Policy?;
21. Do you know who your Company's EEO Officer is?;
22. Have you seen wage & employment posters on this job site?;
23. Have you been asked to refer minorities and females for employment?;
24. Comments: comments of the interviewer and/or the employee may be recorded here.

The interviewer's work is now complete and the form should be turned into the Resident Compliance Specialist.

Section D-RCS'S REVIEW AND ACTION

The RCS completes this section once the certified payroll for the date of the interview is received.

- P. RCS' first and last name and signature;
- Q. RCS' employer. Name of lead CEI firm, or FDOT Residency;
- R. Date of RCS' Review: month/day/year ;
- S. Payroll Entry: as shown on certified payroll for the date of the interview: Classification and hourly rate. Indicate the minimum for that classification as shown on the Prevailing Wage Table used on the project;
- T. Is there a classification or pay discrepancy? The RCS compares observation data in Section C with employee supplied data in Section 2 and the Certified Payroll to identify discrepancies;
- U. Are any deficiencies in pay administration, EEO or other areas evident as a result of the answers the employee provide in Sections 2 and 3?;
- V. The RCS explains Yes answers to T or U and states what action, if any is being taken.

Section 6.5

Payrolls

6.5.1 Purpose

On Federal aid construction projects, certified payrolls are necessary to meet the requirements of the Copeland Act. The certified payrolls serve as a means of ensuring and documenting that workers are paid according to the Wage Decisions (WD) assigned to the contract and that deductions from earnings are in accordance with the Copeland Act.

6.5.2 Payroll Reporting Requirements

Each contractor and subcontractor shall furnish to the project's Resident Compliance Specialist an original certified payroll for wages paid each of its employees assigned to the project during the preceding weekly payroll period. The prime Contractor is responsible for the submission of original certified payrolls by all subcontractors. The certified payroll includes the Statement of Compliance and the payroll records.

The payroll includes wages paid to "Laborers and Mechanics" (i.e., workers whose duties are manual or physical in nature including those who use tools or perform the work of a trade), apprentices, trainees, watchmen and guards. Wages paid to workers who perform no manual or physical work on the construction project and whose primary duties are administrative, executive or clerical, are not included on certified payroll records. Architects, engineers, timekeepers, administrative staff, surveyors, quality assurance staff, and inspectors are excluded on project certified payroll records.

Payrolls are due for every week in which any contract work is performed. The Resident Compliance Specialist is to receive each certified payroll within (7) seven days of the regular payment date of the payroll.

The payroll record of employees is to include: full name, social security number, address, work classification(s), hourly rate(s) of wages paid daily and weekly number of hours worked, gross wages on the project (and those of all projects), the amount and purpose of each deduction(s) made, and actual net wages paid. FDOT additionally requires the race and sex on payroll records. See Table 6.5.2 for Race and Sex Abbreviations

Contractors may make corrections to their payroll records by striking-through and initialing each correction; white-out is not acceptable.

Table 6.5.2
Race and Sex Abbreviations

Sex & Race Categories	Phrases for FDOT Reporting Purposes
Male	Male, M
Female	Female, F, Fem
White (Caucasian)	White, W, Wh, C, CAU
Black	Black, B, Bl
Hispanic	Hispanic, H, Hisp
American Indian or Alaskan Native	American Indian or Alaskan Native, AI-AN, Amer Ind -Ala Nat
Asian or Pacific Islander	Asian or Pacific Islander, As-PI, As-Pac Isl

6.5.3 Deductions

The primary purpose of FDOT's review of payroll deductions made for employees on Federal Construction projects is to ensure that there is no violation of the Copeland "Anti-Kickback" Act. The Copeland "Anti-Kickback" Act generally prohibits federal contractors or subcontractors engaged in construction from inducing an employee to give up any part of the compensation to which he or she is entitled to due to their employment and requires such contractors and subcontractors to submit weekly statements of compliance. Contractors are to maintain records documenting deductions and the employee's consent or acknowledgment of deductions.

Table 6.5.3.1 summarizes, from the Copeland Act, deductions which are generally allowed without application to, or permission from, the U.S Department of Labor. Contractors are advised of their responsibility for requesting U.S. Department of Labor permission before taking any deductions which do not fall within these parameters or which may questionably fall within these parameters.

Table 6.5.3.2 summarizes, from the Copeland Act, the four criteria which the US Dept. of Labor considers in granting contractor permission for other deductions. All four criteria must be satisfied for the granting of permission.

Generally administration fees, interest, or any profit taken on deductions, is not allowed. Employee loans with a bona fide third party (such as a credit union, profit sharing trust fund, etc) are exempt from that requirement. In short, the contractor may not benefit financially from the loan of money to an employee nor may they impose an administrative fee.

Deductions for cell phones and use of company vehicles generally do not meet the requirements in Table 6.5.3.2. Contractors requesting USDOL permission for such

deductions should provide additional information to address their compliance with the requirements.

Child support or other court mandated deductions may allow the contractor to deduct an administrative fee, but only if specified in the order.

Uniform Rental Deductions: These deductions must be approved by the Department of Labor. A copy of the deduction approval letter shall be sent to the Prevailing Wage Rate Coordinator for input into the BIZTRAK system.

Garnishment: A court ordered garnishment order shall be in the contractor's payroll files and be made available to the Dept. upon request.

Loans/Pay Advances: Any loan or pay advance to employees by the contractor/subcontractor requires a signed authorization by the employee for the deductions. The authorization should include the amount of the loan/advance, the beginning date of the deduction, the weekly deduction amount and the number of weekly installment payments. A new deduction requires a separate authorization.

Table 6.5.3.1	
Deductions Generally Allowed without Contractor Application to or Permission from the US Department of Labor	
A	Federal, State income withholding tax; social security taxes
B	Amounts required by court order, such as child support payments
C	Repayment, with out discount or interest, of employee advances or loans
D	Contributions to funds for medical or life insurance, retirement funds or pensions
E	Purchase of US savings bonds
F	Deductions for charitable organizations such as Red Cross, United Way
G	Automatic payroll deposits to a Credit Union
H	Union initiation fees and membership dues
I	Purchase of safety equipment of nominal value when such equipment is not required by law to be furnished by the employer
J	'Reasonable cost of board, lodging or other facilities, when such meets the specific requirements of the Fair Labor Standards Act, Part 531 and special records are kept

Table 6.5.3.2	
Four Criteria Required by US Dept. of Labor in Granting Permission for Other Deductions (Satisfaction of all 4 Criteria is Required)	
1	The contractor, subcontractor or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend or otherwise, and;
2	The deduction is not otherwise prohibited by law, and;
3	The deduction is either:
A	Voluntarily consented to by the employee and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining employment or its continuance –or-
B	Provided for in a bona fide collective bargaining agreement between the contractor and the representatives of its employees, and;
4	The deduction serves the convenience and interest of the employee

6.5.4 Requesting US Dept of Labor Permission for Deductions

Contractors are responsible for requesting U.S. Department of Labor permission for deductions which do not fall within the parameters of those deductions generally allowed without USDOL permission (see Table 6.5.3.1.) This permission is to be obtained before taking the deduction.

Permission is generally granted for a period of one (1) year.

Submit signed deduction permission requests on company letterhead and include a copy of any previous approval granted for this deduction. Address the request to::

U.S. Dept. of Labor Employment Standards Administration Wage & Hour Division Office of Enforcement Policy - Rm. # S3018 200 Constitution Avenue, N.W. Washington, D.C. 20210 Attn: Mr. Timothy J. Helm, Government Contracts Team

The contractor's letter should specifically state that their request:

"Complies with the provisions as set forth in Department of Labor Regulations, 29 CFR Part 3.6. These requirements are: (1) the contractor or any affiliated person does not make a profit or benefit directly or indirectly from the deduction, (2) the deduction is not otherwise prohibited by law, (3) the deduction is voluntarily consented to by the employee in writing and such consent is not a condition of employment or the deduction is provided for in a bona fide collective bargaining agreement, and (4) the deduction serves the convenience and interest of the employee. "

USDOL tries to respond to these requests within 30 days.

6.5.5 Overtime

Overtime is the payment of 1.5 times the basic rate of pay for any hours worked in a workweek over 40. In addition to OT requirements for DBA covered employees; there is also a requirement for OT pay for night watchmen and guards.

Payment of overtime is required for covered employees on federally funded projects over \$100,000 by the Contract Work Hours and Safety Standards Act. Those federally funded projects under \$100,000, as well as state funded projects, have overtime requirements for covered employees under the Fair Labor Standards Act.

6.5.6 Classifications

The payroll record is to reflect the employee's classification of work as listed on the Wage Determination (WD) or on the additional wage determination.

In instances where the contractor's payroll and the WD do not agree precisely as to the classification, the contractor may submit a letter to clarify the classification. The letter should be on the contractor or subcontractor letterhead and be signed by the person signing the certified payroll. These letters are intended to accommodate minor classification differences (such as when the payroll lists "Tractor – Light and the WD lists Tractor < 80 hp). These letters should be kept by the RCS in the payroll file to assist in correlating the payroll classifications to the WD.

Semi skilled is an EEO Category which includes several individual classifications; it is not a job classification. Refer to Table 3.4.1 for specific semi-skilled job classifications which must be shown on the payroll.

The payroll record of a person working as a welder is to include the designation of the operation in which welding is incidental (example: Welder-reinforcing iron worker)

Enrollees in the FDOT On-the-Job Training program (See Chapter 5: On-the-Job Training) may be paid at the Unskilled Laborer rate stated in the Wage determination for training hours. If the Trainee is not paid at least the minimum of the classification, "Trainee" must be added to classification title on the Payroll (note that this may only be done when the individual is properly enrolled in the OJT program).

6.5.7 Work in More than One Classification

When an employee's work on a project includes more than one classification during a payroll period, the contractor has two alternatives for wage and payroll compliance:

Note: In the following examples, only applicable portions of the payroll record are shown; the examples are not complete payroll records.

A. Hourly rate varies and classification of work varies.

Pay the employee varying amounts based on work performed provided the hours worked in each classification are documented and the hourly rate paid is at least the minimum rate for each classification.

The Certified payroll reflects each work classification, hours worked in each, and rate paid for each.

Example:

General Decision Number FL 2003xxxxx		
CLASSIFICATION	RATE	FRINGE
Truck Driver Multi Rear Axle	\$8.88	-
Unskilled Laborer	\$7.77	-

NAME	WORK CLASSIFICATION	HOURS WORED EACH DAY ON THIS PROJECT							TOTAL HOURS	RATE OF PAY	GROSS
		S	M	T	W	Th	F	Sa			
		4/4	4/5	4/6	4/7	4/8	4/9	4/10			
DLEX, JOE	Unskilled Laborer		8	8		2	8		26	\$ 7.77	\$202.02
	Truck Driver Multi rear axle				8	6			14	\$ 8.88	\$124.32

B. Hourly rate and reported classification is unchanged although work varies.

All hours worked by the employee are paid at one rate which is equal to or greater than the minimum rate of the ‘highest classification of work’. The ‘highest classification of work’ is the classification which the employee worked in which has the highest minimum wage on the Wage Decision.

The actual rate paid is equal to or higher than the minimum for each classification worked in.

The Certified payroll reflects the highest classification of work, hours worked each day, and the one rate applied to all work.

General Decision Number FL 2003xxxxx		
CLASSIFICATION	RATE	FRINGE
Truck Driver Multi Rear Axle	\$8.88	-
Laborer	\$7.77	-

NAME	WORK CLASSIFICATION	HOURS WORED EACH DAY ON THIS PROJECT							TOTAL HOURS	RATE OF PAY	GROSS
		S	M	T	W	Th	F	Sa			
		4/4	4/5	4/6	4/7	4/8	4/9	4/10			
DLEX, JOE	Truck Driver Multi rear axle		8	8	8	8	8		40	\$ 8.88	\$355.20

6.5.8 Working Foreman/Women

Working Foreman/women are those employees who, while having some supervisory duties, also engage in “hands-on” construction craft and laborer work. The time that a working foreman expends in the construction craft or laborer work is subject to the Davis-Bacon Act provisions provided

- (1) The employee does not qualify as an exempt executive (as defined in Part 541 of 29 CFR)
- And (2) Twenty percent or more of the pay period involves construction craft or laborer work.

The payroll record of a working foreman includes the designation of Foreman plus the craft or laborer classification worked in (example “Foreman-Carpenter”). The Working

Foreman/Woman is to be paid at least the minimum rate listed in the Wage Determination for the hours spent working in the specific classification.

6.5.9 Independent Contractors

Occasionally, a contractor will have a person perform work on a project and that contractor will report that the person is an independent contractor and not an employee. Generally, a person cannot become an independent contractor just because he or she wants to be or because an employer prefers them to be. It is not enough that the employee and the employer agree.

Independent contractors are a legitimate resource in highway and bridge construction projects. The Department's concern is to ensure that such is not being falsely claimed in order to circumvent taxation, workers compensation and or wage fraud.

The US Dept of Labor and the US Supreme Court have indicated that there is no single rule or test for determining whether an individual is an independent contractor or an employee. The total activity or situation controls and there are many factors to consider.

FDOT may advise the contractor of apparent violations and will rely on the determination of investigators from Internal Revenue Service, US Dept. of Labor etc for a determination as to the validity of the reported status.

The U.S. Dept. of Labor Fact Sheet #13, 'Employment Relations under the Fair Labor Standards Act' offers additional insight as well as various Internal Revenue Service documents.

The work of independent contractors is to be authorized for the project through a Sublet Agreement. All subcontractor compliance reporting requirements apply to independent contractors (see Section 1.7 Compliance Requirement Summary) including submission of certified payrolls reflecting hours worked on the project and classification of work.

Compliance with Davis Bacon Act requirements is affirmed if the subcontract amount (or interim progress payment amount) divided by the hours worked, meets or exceeds the minimum rate for the classification of work performed by the person.

Owner-operators of trucks who own and drive their own trucks are allowed to submit certified payrolls with their names, but they need not show the hours worked or rates paid – only the notation "owner-operator". This special provision does not apply to owner-operators of other equipment (cranes, bulldozers, backhoes, etc.).

6.5.10 Time Frame for Submittal of Payrolls

Each week in which any contract work is performed, the prime contractor, subcontractor, rental agreement with operator, and temporary employment agency will submit to the FDOT Compliance staff the payroll and an original signed Statement of

Compliance within seven (7) days of that company's regular payment day of the payroll period.

Certified payrolls are required from the time the Contractor/subcontractor begins work.

6.5.11 Statements of Compliance

The Wage and Hour Record (form No. 700-010-69) has two required parts:

- 1 A Statement of Compliance which includes an original signature of the contractor or their agent who pays or supervises the payment of the persons employed under the contract,
- 2 The payroll record.

The Statement of Compliance may be retyped for the convenience of the contractor, but it must contain the exact words and sections of the original form. The Statement certifies:

1. That the payroll for the pay period contains the information required and that such information is correct and complete.
2. That such laborer(s) or mechanic(s) (including apprentice and trainee) employed on the contract during the payroll period have been paid the full wages earned and that no deductions, directly or indirectly have been made other than those permissible.
3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage rate determination incorporated into the contract.
4. That the Contractor or subcontractor shall make the required records available for inspection, copying or transcription by authorized representatives of the Department, the FHWA and the US Department of Labor.

Notifications of non-compliance ('Payroll Violations') are issued for payrolls which have errors, are not consistent with interview reports, or show inadequate payment of employees.

6.5.12 Directions for Completing the Payroll Form (No. 700-010-69)

Computer generated payrolls should follow these same guidelines.

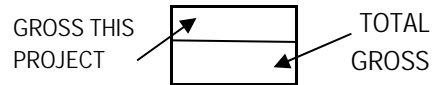
Directions for completing Wage and Hour Record Page 1 of 2

Date	Record the date this record is being submitted
Name:	Name and title of person signing the Certification
Contractor;	Name of the organization
Building or Work	Identification of the project (the FDOT Fin #)
Payroll Period	Day and month /year pay period begins Day and month/year pay period ends
Contractor	Name of the organization
Description of Deductions;	Each deduction with sufficient information to distinguish the purpose of that deduction is to be identified. Generalized or highly abbreviated phrases are to be avoided in order that deductions can be clearly identified. This identification may be done in the space provided or it may be done on a separate page and indicated as such with "see attached". If the deductions are clearly labeled on the payroll sheet itself, then the deductions do not need to be listed on the Certification or on a separate attachment. In such cases, mark 'see payroll'.
Box 4a, b, c	Complete these boxes only if the Wage Determination (WD) for this project indicates a Fringe payment amount for classifications.
Remarks	Include any data deemed appropriate
Name & Title	Name and title of person signing the Certification
Signature	The persons signature

Directions for completing Wage and Hour Record Page 2 of 2

- Column 1. All payroll records submitted shall contain: Name, address and social security number.
- Column 2. This column is for withholding exemptions, Race, and Gender.
- Column 3. Classification: Record the classification as it appears on the Wage Determination (WD) or on the Additional Wage Rate Request for the specific project. Semi-skilled laborer, helper, or operator (without designation of which type) cannot be used. If the classification listed on the payroll is not exactly as it appears on the WD, the contractor may submit a signed letter to clarify and to correlate the payroll classification to the WD.
- Column 4. Hours Worked by day of week. Overtime hours are to be listed on the upper row, straight-time hours are to be listed on the lower row.
- Column 5. Total Hours Worked on FDOT Project (shown separately for overtime and straight –time).
- Column 6. Rate Paid – State the hourly pay rate (for overtime on upper row and straight-time on lower row). Check the rate paid for the work classification against the Wage Determinations for the specific contract.

Column 7. Gross Amount Earned. On the top section, record the employees gross earnings on this project. On the bottom section, record the employee's total gross earnings this pay period (includes this project, other FDOT projects and any other)



Column 8. Deductions: Deductions other than FICA or withholding taxes *must be* identified. The amount of each and every deduction shall be listed along with its description, including those not requiring USDOL authorization. (See Deductions Section 6.5.4).

Column 9 Net wages paid for week.

Section 6.6

Notification of Payroll Violation

6.6.1 Purpose

Payrolls are to be promptly reviewed by the Resident Compliance Specialist and the contractor is to be advised of all instances of omissions, tardiness and violations.

6.6.2 Violation Types

The Resident Compliance Specialist issues a "Notice of Non Compliance" letter (see Workbook section 1.6) in the event:

- A. The contractor was active on a project and failed to submit a certified payroll for that week
- B. The certified payroll record is not received within seven (7) days of that company's regular payment day of the payroll period.
- C. The Statement of Compliance is incorrect or incomplete

A Payroll Violation (Form 700-010-59) is issued by the Resident Compliance Specialist when it is determined the certified payroll does not comply with the minimum wage requirements, that the submitted wage/payroll information is incomplete or erroneous, or unauthorized deductions were made. Phone calls shall not be placed in lieu of issuance of this form.

Payroll Violations are identified by a code number. The payroll record of any one employee may reflect more than one violation. Table 6.6.2 summarizes the Violation Codes.

Table 6.6.2
Payroll Violation Codes

Code	Description
1	Time and one-half rates were not paid for work performed in excess of 40 hours per week
3	Improper Classification: Employees observed assigned to work involving "higher" classifications than those shown on payroll listing.
4	Hourly rate paid is less than minimum authorized wage rate for classification of work shown and included in the construction contract
5	Certified Payroll contains mathematical errors that indicate payment made to the employee(s) violated Federal Aid labor provisions or the contract
6	Unauthorized Payroll deductions
7	Other Violation not listed above

6.6.3 Correction Requirements

The prime Contractor is responsible for obtaining and forwarding to the Resident Compliance Specialist, all documentation and records required satisfactorily resolving all Notices of Noncompliance and Payroll Violations issued for their own workforce, their subcontractors, temporary employment agencies, and rental agreements with operators.

Code 3,4 5, or 6 payroll violations require contractors to furnish to the Resident Compliance Specialist, within 20 days, an original certified supplemental payroll showing the payment restitution along with proof of payment made and received by the employee.

In the event the contractor cannot contact the affected employee, (e.g. moved and no forwarding address) the contractor is not relieved of the responsibility for payment. In those cases, payment in the amount of that owed the employee must be sent to the proper Federal Agency. Contact the Prevailing Wage Rate Coordinator or District Compliance Manager for details.

In the event of a Code 7 violation, the Resident Compliance Specialist shall specify the corrective action, documentation and time frame for corrective action.

The payroll record reflecting correction of a violation, and its accompanying Statement of Compliance is referred to as a 'Supplemental Payroll'. The Supplemental Payroll is to be reviewed by the Resident Compliance Specialist. If it substantiates correction of the

cited violation then Contractor will be considered to be in compliance and no further non compliance action is taken.

If the corrective action does not satisfy the violation cited or if a certified supplemental payroll is required and is not received within the (20) twenty days allotted, and/or is received and does not satisfy the infraction, then the Resident Compliance Specialist coordinates the Performance Deficiency Letter which withholds the Monthly Progress Estimate in it's entirety and affects the final grade of the prime Contractor's Past Performance Rating.

Section 6.7

Wage Surveys

6.7.1 Purpose

Wage surveys are the means with which the USDOL gathers information to update the WD's with what are to be determined as prevailing wage rates.

6.7.2 Requirements

Wage surveys will be conducted when the US Department of Labor (USDOL) initiates them and commits to publishing new wage tables from the surveys. USDOL will outline the time period for which survey data will be collected, which is usually for a year's time period. The Prevailing Wage Rate Coordinator, along with the District Contract Compliance personnel, will encourage Contractor participation by means of announcements and workshops in the districts and communication through the Contractor's associations. The points will be stressed that (1) the results of the survey's accuracy are determined by the amount of participation (poor participation creates erratic rates in the wage tables) (2) once the survey is done, rates will be in effect for at least the next three years and (3) if voluntary participation is not successful the Department will have no choice but to return to a contract requirement method of collecting data.

6.7.3 Data Collection

USDOL will provide the forms and assemble the data when collected. Instruction will be given by USDOL and/or FDOT to help guide Contractors and other Department personnel through the survey process.