


422-10-04

DATE: February 12, 2010

SUBJECT: Elimination of Form FHWA-47
& Changes to Contractor Payroll Records

TO: District Executives

FROM:  Rebecca S. Burns, P.E.
Acting Director, Bureau of Construction and Materials

This Strike-Off Letter revises the Project Office Manual, Publication 2, Section B.10.1, Parts 4-6, and updates policies to reflect recent federal regulation modifications to reporting requirements for federally funding highway construction projects. This policy is time neutral.

Final rule regarding federal regulation 23 CFR Part 635.126, effective February 5, 2010, eliminated the Form FHWA-47, "Statement of Materials and Labor Used By Contractor of Highway Construction Involving Federal Funds." This form is no longer required.

Further, the regulations modify the personal identification information submitted on Certified Payrolls for federal projects. In accordance with federal regulation 29 CFR 5.5(3)(ii)(A), the Department will no longer accept certified payrolls that contain the employee's full social security number and full home address. Certified payroll records submitted to the Department shall only include the last four digits of the employee's social security number. All other required documentation shall remain the same.

Consistent with federal law, this policy supersedes the requirements and wording found in the DSP-8. Revised language for the Project Office Manual, Publication 2, Section B.10.1, Parts 4-6, is attached. Revisions are shown in bold font.

A copy of this notification is being sent to the Associated Pennsylvania Constructors (APC). However, to order to ensure that all Department contractors and subcontractors are in compliance, the information in this letter should be shared at project meetings and preconstruction conferences.

Questions or concerns regarding this matter should be directed to J. Michael Long, P.E., Chief, Contract Management Division, by calling 717-787-7894 or via email at johlong@state.pa.us.

Attachment

4200/JML/jml 7-7894

cc: R.S.C. Reading File
 D. Spila, Policy Office, CKB 8th Floor
 Bureau Directors, Highway Administration
 Division Chiefs, Bureau of Construction and Materials
 District ADE-Construction
 Associated Pennsylvania Constructors
 J.M. Long, BOCM, CKB 7th Floor

REPLACES B.10.1	PENNSYLVANIA DEPARTMENT OF TRANSPORTATION PROJECT OFFICE MANUAL	PART B	SECTION 10	PAGE
DATED 05/01/2009		DATE January 1, 2010		
SUBJECT CONTRACT LABOR COMPLIANCE GUIDELINES AND RESPONSIBILITIES				

4. Wage Rate Spot-Check Procedure

The Inspector-in-Charge is responsible for weekly wage rate spot-check of approximately ten percent of the total work force (prime and subcontractors). Wage rate spot-checks are to include the subcontractor's employees as they are engaged. Different work classifications are to be spot-checked. If the total work force (prime and subcontractor) or any project is ten or less, and the employees remain constant, then spot-checks are required every three weeks and not every week.

Each wage rate spot-check is to be recorded in a bound book, or a section of a bound book, that contains a record of all the checks and corrective actions. The entries are to include the signature of the inspector who performed the check.

Mark the book so that it can be identified in the documentation trail for the project. It shall also be available for routine inspections by the DLCCA, Central Office Labor and Contract Compliance Coordinator, Quality Assurance Teams and FHWA representatives.

All wage rate spot-checks are to be conducted privately, and are to include the following information:

- Employee Name, **Last 4 Digits of** Social Security Number
- Employee Classification (Compare to Actual Work Activities at time of review)
- Employee Pay Rate and Predetermined Wage Rate
- Name of Employer
- Wage or Hour Complain - (yes or no) Record in detail and refer to DLCCA immediately for an investigation.
- Date of Wage Check - (Inspector's Name)
- Signature of Employee Checked
- Initials of Inspector Checking

If a classification is not listed in the contract, the DLCCA needs to initiate a Department of Labor Standard Form 308 - Request for Wage Determination and Response to Request - and establish a rate for this classification. The form is to be forwarded to the Bureau of Construction and Materials for coordination with the Department of Labor.

5. Payrolls and Certifications.

a. Receipt of Payrolls - Federal-Aid Projects

The Inspector-in-Charge must receive the Contractor's and all Subcontractor's payrolls and certifications by the seventh day after each payday. This is not to be construed as seven days from the end of the pay period. The certified payroll must identify each employee's pay date. The Inspector-in-Charge must initial, date and randomly review each payroll and certification for classification and wage rate errors.

The Subcontractor must submit his payrolls and certifications directly to the project office. The Contractor has the option to request a copy of the Subcontractor's payrolls. When there is a complaint, the Inspector-in-Charge is to deliver all payrolls and certifications within five working days to the DLCCA.

In accordance with federal regulation 29 CFR 5.5(3)(ii)(A), the Department will not accept certified payrolls that contain the employee's full social security number and full home address. Certified payroll records submitted to the Department shall only include the last four digits of the employee's social security number.

b. Receipt of Certifications - 100% State-Funded Projects.

The Inspector-in-Charge is to receive all Form LIPW-128. Payroll Certification for Public Works Projects, by the tenth day after each pay date. Computerized payroll submissions may supplement Form LIPW-128 as long as all information contained on the form is included. Information not on the computerized payroll must be in the proper block on the form. The Inspector-in-Charge is to initial, date and promptly forward the certification to the DLCCA. All payrolls on 100% State projects must be notarized.

On 100% state contracts which do not contain the prevailing wage attachment, the Department will request payroll records at the discretion of the Project Engineer at least three times throughout the duration of the project.

6. Payroll Reviews.

The official file copy of payrolls and certifications will be kept in the project office. Duplicate files may be retained by the District, at their option. The following information is to be checked on payroll reviews.

a. Employee's Full Name **and Address** - Required on initial payroll only.

b. **Last 4 Digits of** Employee's Social Security Number.

- c. Employee's Contract - Classification and Predetermined Rate - Work activity should be described adequately to determine proper classification.
- d. Employee's Daily Hours Worked at Straight Time.
- e. Employee's Hours Worked at overtime (one and one-half times the basic contract rate).
- f. A copy of the Contractor's and all Subcontractors' fringe benefit programs is required (how much per hour is deducted, for what purpose, and where the money is deposited). Copies of the Prime Contractor's and all Subcontractors' fringe benefit letters, addressing all applicable work classifications, are to be received and on file. An employee is to be compensated for both the hourly base and the hourly fringe benefit rate as defined by the prevailing wage rates of the contract. The fringe benefits can be paid all in cash, a combination of cash plus partial fringe benefits paid to an approved plan, or all the fringe benefits paid to an approved plan(s). Plans and payments should be verified. Payments to employees for board, lodge and travel do not constitute an authorized payroll deduction.
- g. Standard (taxes, social security) and additional (work clothes, loan payments) deductions require authorization by the employee deductions should not be noted as "other" or "miscellaneous" or combined into one dollar figure on the weekly payroll; the Contractor may correct errors like these by attaching a letter to each payroll explaining these deductions; payrolls are not to be returned to the Contractor for any reason.