

Every contractor and subcontractor shall submit to the Department of Jurisdiction (Contracting Agency), within thirty (30) days after issuance of its first payroll and every thirty (30) days thereafter, a transcript of the original payrolls, subscribed and affirmed as true under penalty of perjury.

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.

A failure to provide a schedule by a contractor or subcontractor is a violation of Article 8 of the Labor Law. See Section 220-a.

Departments of Jurisdiction are also required to collect and maintain payroll records for five years from the date of the completion of the work, as well as review for validity.

OSHA 10 - Hour Course

This safety course is required by all workers on public work projects of at least \$250,000.00. The provisions of this requirement must be included in the bid and contract documents.

2008 Wicks Reform

This raises the threshold for public work projects subject to Wicks Law to include all contracts advertised or solicited for bid after 7/01/08.

More information on recent legislation appears on the department web site:
www.labor.ny.gov

Withholdings

The Department of Jurisdiction is required to withhold and retain funds when directed by the bureau. The funds **may not** be released until notified by the bureau.

Bureau of Public Work Offices:

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State Office Campus
Albany, NY 12240
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Albany District
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44 Hawley St., Rm. 908
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Buffalo District
65 Court St., Rm. 201
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Tel. (716) 847-7159
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Long Island Districts
400 Oak St., Suite 101
Garden City, NY 11530-6551
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Fax (516) 794-3518

160 So. Ocean Ave., 2nd Fl.
Patchogue, NY 11772
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Rochester District
109 So. Union St., Rm. 312
Rochester, NY 14607
Tel. (585) 258-4505
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Syracuse District
333 E. Washington St.
Room 419
Syracuse, NY 13202
Tel. (315) 428-4056
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Utica District
207 Genesee St., Rm. 603B
Utica, NY 13501
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White Plains District
120 Bloomingdale Rd.
Room 204
White Plains, NY 10605
Tel. (914) 997-9507
Fax: (914) 997-9523

New York City District
75 Varick St., 7th Fl.
New York, NY 10013
Tel. (212) 775-3568
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Newburgh District
The Maple Building
3 Washington Ctr., 4th Fl.
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ASSIST *the Unemployed*

CONNECT *Employers and Workers*

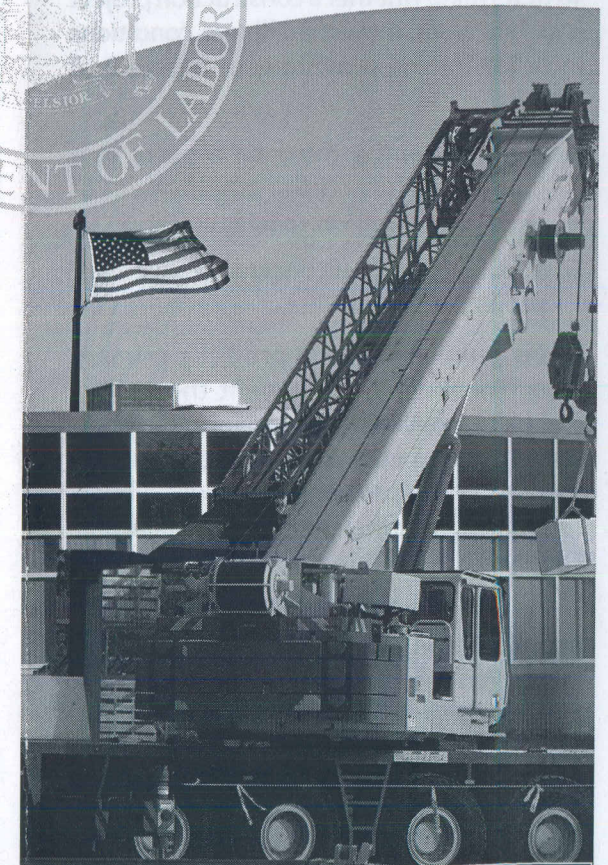
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www.labor.ny.gov

BUREAU OF PUBLIC WORK

A Guide for Contracting Agencies



NYS
DEPARTMENT
OF LABOR
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Bureau of Public Work

Background

The Bureau of Public Work administers Article 8 and Article 9 of the New York State Labor Law.

Article 8 covers the payment of prevailing wages and supplements on public construction projects.

To determine whether a construction project is public work, it must fulfill two conditions in order for the provisions of Article 8 to apply:

1. A public entity must be a party to a contract involving the employment of laborers, workers or mechanics; and
2. The contract must concern a public work project.

To be public work, the project's primary objective must be to benefit the public. Ownership (public or private) is also a factor in determining whether a project is public work. Funding of the project is not considered in determining whether the provisions of Article 8 apply.

Generally, projects for construction or reconstruction done on behalf of a public agency (entity) are public work. If there is a question regarding whether this condition exists, the Bureau of Public Work will make a determination based on the project details.

Article 9 applies to building service contracts involving:

- the care or maintenance of an existing building,
- the transportation of office furniture

or equipment to or from such a building,

- the transportation and delivery of fossil fuel to such a building, or
- a contractor under contract with a public agency for more than \$1,500 to furnish services through the use of building service employees.

For questions regarding Article 9, contact the appropriate district office or Central Office listed on the back of the brochure.

Responsibilities of the Department of Jurisdiction

A Department of Jurisdiction (Contracting Agency) 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; and a public authority awarding a public work contract.

The Department of Jurisdiction 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, send 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 this award, the contract, by law requires that the Department of Jurisdiction

MUST furnish the following information to the bureau: the name and address of the contractor, the date the contract was let and the approximate dollar value of the contract. To aid compliance with this provision of the Labor Law, a copy of the Department's Notice of Contract Let form (PW-16) accompanies the original Prevailing Rate Schedule.

The Department of Jurisdiction **MUST** notify the bureau of the completion or cancellation of any public work project using the department's PW-200 form.

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. The contractor **and** the Department of Jurisdiction may apply to the Bureau of Public Work for a dispensation permitting workers to work additional hours or days per week on a particular public work project.

Wages and Supplements

The wages and supplements paid and/or provided to laborers, workers and mechanics employed on a public work project may not be less than those listed in the current Prevailing Rate Schedule for the locality where the work is performed. If a prime contractor on a public work project does not have a Prevailing Rate Schedule, the contractor must notify the Department of Jurisdiction, which must request an original Prevailing Rate Schedule.

When it gets the original schedule, the Department of Jurisdiction **MUST** provide complete copies 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. The annual determination is available on the Department of Labor web site: www.labor.ny.gov.

The Labor Department issues wage schedules on a county-by-county basis that contain minimum rates of pay for different work classifications. The prime contractor is required by law to provide copies of all applicable county schedules to each subcontractor and to get an affidavit from the subcontractors that they received the schedules.

If the original schedule has expired, the contractor may obtain a copy of the new annual determination from the department's web site: www.labor.ny.gov.

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, 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.