Oregon Bureau of Labor and Industries

Prevailing Wage Rate Law for Public Agencies

www.oregon.gov/boli pwr.email@boli.oregon.gov

Seminar handouts can be found at:
https://www.oregon.gov/boli/employers/Pages/prevailing-wage-seminars.aspx
Scroll down and click on View Description

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Topics

- Prevailing Wage Rate (PWR) Law Basics
- PWR Law Coverage
- State & Federal Coverage
- Finding the Correct Rate of Pay
- Agency Responsibilities
- Agency Liability and Penalties
- Checklist to Avoid Pitfalls
- BOLI PWR Unit Contacts

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Prevailing Wage Rate Law Basics

- Oregon's Prevailing Wage Rate (PWR) laws were first passed in 1959 and were based on the federal Davis-Bacon Act.
- The PWR laws apply to all contractors and subcontractors performing work on a covered project.
- The prevailing wage rate is a minimum wage that must be paid to workers for the type of work they perform on a covered project; it consists of an hourly base rate and an hourly fringe benefit rate.

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Purpose of the PWR Laws

The purpose of the PWR laws is:

- To protect local contractors from unfair competition.
- To promote local participation in public construction and maintain community established compensation standards.
- To encourage the training and education of workers in industry skill standards.
- To encourage contractors to use the fringe benefit funds for actual benefits for their employees.

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Coverage: PWR Projects

BOLI uses a two-step test for questions of coverage of the PWR laws:

1. Does the definition of "**public works**" apply? (*not the same as "public improvement"*)

   ORS 279C.800(6)(a) and OAR 839-025-0004(25)(a)

2. Do any of the exemptions from the law apply?

   ORS 279C.810(2) and OAR 839-025-0100

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Step 1: Definition of Public Works – (A)

(A) Construction, reconstruction, major renovation, painting, demolition, or removal of hazardous waste that is carried on or contracted for by a public agency to serve the public interest.

- Demolition and removal of hazardous waste was added to multiple parts of the definition of “public works” on January 1, 2024 by SB 594.

Types of Work

Most of the types of work from statute are defined in OAR 839-025-0004:

- Construction – initial construction of or additions to buildings, structures, or roads.
- Reconstruction – restoration of existing buildings, structures, or roads.
- Major renovation – remodeling or alteration of buildings or structures, alteration of roads.
- Demolition – dismantling, razing, destroying, wrecking or removal of buildings or other structures or any part thereof, and of highways and roads.
- Removal of hazardous waste – see OAR 340-100-0010 for definition of hazardous waste.

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Examples of Reconstruction and Renovation

"Public works" projects will include maintenance and repair work if the work includes any of the types of work listed in the definition. Maintenance and repair work often includes reconstruction and renovation. Examples:

- Repairing a roof
- Replacing carpeting in part of a building
- Patching potholes or chip sealing a road
- Upgrading sewer lines
- Replacing a boiler
- Installing/reconfiguring systems furniture

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Definition of Public Works – (A)

The project must be “carried on or contracted for by any public agency to serve the public interest.”

- Carried on – public agency conducts/manages (i.e., has substantial control over) the project.
- Contracted for – public agency has entered into a binding agreement for construction, even if not directly with a contractor.
- To serve the public interest – a project that is to the advantage or well being of the community or people as a whole.

Definition of Public Works – (B)

(B) Construction, reconstruction, major renovation, painting, demolition, or hazardous waste removal, and project will use $750,000 or more in funds of a public agency.

- Project could be publicly or privately owned.
- Project does not have to be contracted for by a public agency.
- Public funds can be used for construction costs or for related costs such as land acquisition, equipment and furniture, appraisals, surveys, etc.
- These projects are sometimes referred to as *"public/private"* projects.

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Examples of Public/Private Projects

Examples of public/private projects that are subject to the PWR laws:

- A private non-profit receives a $1,000,000 grant from a public entity to renovate a historic building.
- A private developer receives a $2,000,000 grant from a public entity to help pay for a privately owned mixed-use affordable housing project.
- A private developer receives a $750,000 loan from a public agency to help with the costs of a planned private development.

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Definition of Public Works – (C), (D), (E)

(C) Privately owned construction and public agency will occupy or use 25% or more of the square footage of completed project.

(D) Installation or construction of a device, structure or mechanism that uses solar radiation on public land, premises, structures or buildings, regardless of cost of project and whether project uses public funds.

(E) Construction, reconstruction, painting, demolition, removal of hazardous waste from, or major renovation of, a road, highway, building, structure or improvement of any type that occurs, with or without using funds of a public agency, on real property that a public university listed in ORS 352.002 owns.

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Definition of Public Works – (F)

As of January 1, 2024:

(F) Demolition of, or removal of hazardous waste from, a road, highway, building, structure or improvement of any type that uses $750,000 or more in funds of a public agency, **or that occurs on real property that a state agency owns**, but that does not involve constructing, reconstructing, renovating or painting a road, highway, building, structure or improvement.

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Definition of Public Works – (G)
NEW: Off-site Fabrication

2025's HB 2688 requires prevailing wages be paid for off-site work that includes fabrication, assembly, preconstruction, or construction that is:

- "Bespoke" (i.e., customized) (OAR 839-025-0004);
- Performed specifically for, and in accordance with the specifications of, a PWR project;
- Performed on any of eight specific systems or components (see next slide).

Applies to public works contracts entered into on or after September 3, 2026

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Definition of Public Works – (G)
NEW: Off-site Fabrication

- To be subject to PWR, the off-site, or satellite location, work must be performed in one of these systems of components:

HVAC and other ducting or piping mechanical systems or components	Plumbing systems or components
Electrical systems or components	Boiler systems or components
Masonry and plaster systems or components	Ornamental and structural iron work
Roofing, flashing and architectural panel systems or components	Mechanical insulation

Applicable rates at the satellite location are the same as those used on the PWR project site.

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Definition of Public Works – (6)(b)(A)

“Public works” does not include:

The reconstruction or renovation of privately owned property that is leased by a public agency.

ORS 279C.800(6)(b)(A)

Defined as: “improvements of all types within the framework or footprint of an existing building or structure.”

OAR 839-025-0004(28)

Step 2: Exemptions from the PWR laws

Exemption #1: Projects with a total project cost of $50,000 or less are exempt from the PWR laws (*except for projects on public property with a solar component*).

- $50,000 threshold includes all contracts for materials, supplies and labor.
- Project may be made up of multiple contracts; each contract is subject to PWR when the combined price of all contracts awarded is over $50,000.
- $50,000 threshold does not include:
  - Value of donated materials;
  - Work performed by volunteers or agency labor force.

ORS 279C.810(2)(a)

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Step 2: Exemptions from the PWR laws

Exemption #2: Projects for which no funds of a public agency are directly or indirectly use are exempt from the PWR laws (*except for projects on public property with a solar component and projects on public university property that includes construction, reconstruction, renovation, painting, demolition, or hazardous waste removal*).

- "Directly used funds of a public agency" means any revenue, money or that which can be valued in money that is collected for a public agency or that is derived from a public agency's immediate custody and control . . . that is used as payment for all or part of a project.

ORS 279C.810(2)(b) and OAR 839-025-0004(11)

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Step 2: Exemptions from the PWR laws

- "Indirectly used funds of a public agency" means a public agency ultimately bears the cost of all or part of the project, even if a public agency is not paying for the project directly or completing the payment at the time it occurs or shortly thereafter. Examples.
  - Amortizing the cost of construction over the life of a lease and paying these costs with public funds through the lease;
  - Public agency subsidizing the costs of construction that would normally be borne by contractor;
  - Using insurance proceeds that belong to a public agency to pay for construction, whether contractor obtains payment directly from insurance company or public agency.

OAR 839-025-0004(11)

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Funds of a Public Agency

“Funds of a public agency” do not include:

- Building and development permit fees paid or waived by the public agency.
- Staff resources for the purposes of coordinating, supervising or overseeing the construction project, or for the design or inspection of a construction project.
- Tax credits or tax abatements.
- Land that a public agency sells to a private entity at fair market value.
- More in ORS 279C.810(1)(a) and OAR 839-025-0004(11)(b).

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Step 2: Exemptions from the PWR laws

Exemption #3: Projects for residential construction that are privately owned and that predominantly provide affordable housing are exempt from the PWR laws.

- Affordable housing – serves occupants whose incomes are no greater than 60% of the area median income, or if occupants are owners, no greater than 80% of the area median income.
- Predominantly – 60% of more of the units are for "affordable housing."
- Privately owned includes:
  - Affordable housing owned by a public agency and leased to a private entity for 50 years or more;
  - Affordable housing owned by a partnership in which a housing authority is a minority member.

ORS 279C.810(2)(d)

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Step 2: Exemptions from the PWR laws

- Residential construction – construction, reconstruction, major renovation or painting of single-family houses or apartment buildings not more than four stories in height, plus all incidental items like site work, parking areas, utilities, streets and sidewalks.
  - The exemption for affordable housing does not apply if the project includes commercial space. Commercial space includes anything that is not residential space and is not incidental to the construction. Examples: coffee shop, retail store, artist studios, childcare that is open to non-residents. ORS 279C.810(2)(d)
  - See US Dept. of Labor **All Agency Memorandum (AAM) 130 and 131**

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Individual Exemptions

Exempt individuals:

- Oregon Youth Conservation Corp members.
- Adults in Custody of the Oregon Department of Corrections assigned to a work release program administered by ODC pursuant to the provisions of ORS 144.480.

OAR 839-025-0100(2)(a) & (b)

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Questions About Coverage

BOLI provides coverage determinations when requested.

- Requestor must submit all information necessary to make the determination.
- BOLI will make the determination within 60 days of receiving all necessary information.
- Procedure for making a request and determinations issued are posted on BOLI's website.
- The requestor or anyone adversely affected or aggrieved by the determination can request a hearing.

ORS 279C.817

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Federal and State PWR Law Coverage

When projects are subject to both federal and state PWR laws, both sets of laws apply.

- When the laws are in conflict, generally follow the stricter of the two, or the more beneficial to worker.
- Contractors must pay the higher of the state or federal prevailing wage rates.
  - Exception to this for “residential construction” projects; those generally use federal residential rates: www.sam.gov.

ORS 279C.838; OAR 839-025-0037

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Prevailing Wage Rates

- State prevailing wage rates are based on union rates for each trade, according to project location in reference to BOLI's 14 Regions. (2021 SB 493)
  - 2024 SB 1568 modified this slightly for the Electrician rates; they are based solely on the union division of Oregon.

- Prevailing Wage Rate books are generally published twice each year, on **January 5** and **July 5**.
- Amendments are generally published twice each year, on **April 5** and **October 5**.

NOTE: BOLI published a September 3, 2026 rate book

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Applicable Prevailing Wage Rates

- Generally, the applicable prevailing wage rates for a project will be the rates in effect at the time the initial specifications were first advertised for bid solicitations.
- Once the applicable rates are established for the project, those are the prevailing wage rates to be used for the duration of the project.
- The applicable rates are set differently for projects that use a Construction Manager/General Contractor (CM/GC) and for public/private projects. The applicable rates may be set differently for projects that are subject to both the state PWR laws and the federal Davis-Bacon Act.

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Applicable Prevailing Wage Rates

- For projects that use a Construction Manager/General Contractor (CM/GC):
  - The applicable rates are those in effect when the CM/GC and the contracting agency agree to the Guaranteed Maximum Price (GMP) or when the contracting agency authorizes early construction work to begin, whichever happens first.
- For public/private projects:
  - The applicable rates are those in effect when the public agency enters into an agreement with a private entity for the project.
- For projects subject to both the state Prevailing Wage Rate laws and the federal Davis Bacon Act:
  - The public agency may use the U.S. Department of Labor's method to establish the applicable state rates for the project.

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To Look Up a Rate

When looking up **prevailing wage rates**:

- Make sure it's the correct rate book and/or amendment;
- Use BOLI's **Definitions of Covered Occupations** book to make sure it's the correct classification;
- Watch for Areas, zone pay, hazard pay, shift differential, etc.

Email or call BOLI for help: pwr.email@boli.oregon.gov or (971) 245-3844

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Break Time



Agency Responsibilities

- Planned Public Improvement Forms (Public Contracting Requirement)
- Apprentice/Workforce Demographics & Reporting (Public Contracting Requirement)
- Required Contract Specification and Public Works Contract Provisions
- Ensuring a Payment Bond is Filed
- Notice of Public Works Form
- Paying the PWR Fee
- Certified Payroll & Withholding Requirements
- BOLI's List of Ineligibles
- Division of Projects

*See **PWR Laws Handbook** for more information*

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Planned Public Improvement Summary

Not less than 30 days before adopting a budget for the subsequent budget period, agency must submit to BOLI a list of planned **public improvements** (ORS 279A.010(1)(cc)) for the coming budget period.

Summary (WH-118 form) must:

- List every public improvement the agency plans to fund in the budget period;
- Identify improvement by name;
- Estimate total on-site construction costs;
- State whether agency intends to perform construction through a private contractor.

ORS 279C.305

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Least Cost Analysis – WH-119 Form

- ORS 279C.305 requires public agencies to file a Least Cost Analysis (WH-119) form with BOLI to show using agency's own equipment or personnel is the lease cost option when:
  - The estimated value of construction work agency intends to perform with agency's own equipment or personnel exceeds $200,000, or
  - The public improvement involves resurfacing highways, roads or streets at a depth of two or more inches and the estimated project cost exceeds $125,000.
- Analysis must be filed with BOLI not later than 180 days before construction begins on the public improvement.
- ORS 279C.306 allows contractors and contractor trade associations to file a complaint with BOLI alleging a public agency has violated ORS 279C.305.

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Apprentice Demographics

2023 HB 2649 – effective **Jan 1, 2024**

ORS 279C.533 requires "qualifying agencies" (QAs) to include apprenticeship utilization requirements and workforce aspirational goals in certain public improvement contracts. QAs are:

- State contracting agencies
- Public universities listed in ORS 352.002
- Community colleges
- Higher Education Coordinating Commission

*See **Frequently Asked Questions on HB 2649** (2023)*

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Apprentice Demographics

Qualifying Agency (QA) must provide in each public improvement contract that exceeds $3 million that contractor shall:

- Employ apprentices to perform 12% or more of the work hours that workers in apprenticeable occupations perform;
- Require in each subcontract of $750,000 or more that the sub employs apprentices to perform 12% or more of the work hours that workers in apprenticeable occupations perform.

Apprentice Demographics

- QA must reduce payment to prime if prime doesn't meet 12% apprentice requirement (reduction is $15/hour for each hour short)
- QA must pay the amount of reduction to State Treasury, credit of BOLI; BOLI must use funds to expand apprenticeship programs.
- Prime may provide in subcontract they may reduce payment to sub if sub doesn't meet 12% apprentice requirement.
- As of **January 1, 2027**, apprentices must perform **15%** or more of the work hours that workers in apprenticeable occupations perform.

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Workforce Demographics

For public improvement contracts awarded **by a QA** that exceed $3 million, QA must require contractor to:

- Establish and implement a plan for outreach, recruitment and retention of women, minority individuals, and veterans for the project. *(See ORS 279C.533 for minimum requirements of contractor's plan.)*
- Require of any subcontractor with subcontract of $750,000 or more to establish and implement their own plan for outreach, recruitment and retention of women, minority individuals, and veteran to work on the project.

For each contractor and subcontractor, the aspirational target is at least 15% of total number of workers per contract and per subcontract make up of one or more of these groups.

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Reporting Requirements

- QA must require contractor to complete and submit monthly reports showing the extent of their compliance and the compliance of their subs with subcontracts of $750,000 or more.
- Contractors may use BOLI's "enhanced" certified payroll report form (on BOLI's website).
- Within 30 days after making a final payment to contractor, QA must submit to BOLI the information reported to them by each contractor.
  - Use BOLI's new Online System for Reporting on Public Improvement Projects.
  - QAs need to register for the online reporting system here:

    https://pwr-reporting.boli.oregon.gov/auth/login
- BOLI must report QA information to Legislative committee.

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PWR Requirements – Language Provisions

Public agencies must include certain provisions in contract specifications for public works:

1. Must include the applicable rates for the project.
   - May include a hard copy of the rates or reference the rates. Reference must include **title** and **date** of publication, and if applicable, date of amendment.
   - Reference to electronic rates is also allowed. Must still include **title** and **date**.

ORS 279C.830(1)

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PWR Requirements – Language Provisions

Provision in contract specifications for public works:

2. Only when project is subject to BOTH state PWR law and federal Davis-Bacon Act, must include a statement that workers will be paid not less than the higher of the applicable state or federal prevailing wage rate. (*Not required for "residential construction" projects, under OAR 839-025-0037.*)

ORS 279C.830(1)

Potential liability for public agencies if provision is missing from the contract specifications for projects subject to BOTH state PWR law and federal Davis-Bacon Act

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PWR Requirements – Language Provisions

Potential liability for public agencies if public agency fails to:

- Include the state and federal prevailing wage rates in the contract specifications, or
- Provide in the contract that workers must be paid the higher of the applicable state or federal prevailing wage rates;
  - Public agency will be liable to each affected worker for the difference between the lower and higher wage rate, for each hour worked, AND an additional amount equal to the unpaid wages, as liquidated damages.

ORS 279C.855(4)

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PWR Requirements – Language Provisions

Provision in contract specifications for public works:

3. Must include a provision stating that every contractor and subcontract have a public works bond filed with Construction Contractors Board (CCB) before starting work on the project, unless exempt.

ORS 279C.830(2)

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PWR Requirements – Language Provisions

Information regarding public works bonds:

- Public agency is not required to ensure contractors have filed public works bond.
- Allowed exemptions:
  - Certified disadvantaged business enterprise; minority- or woman-owned business; emerging small business; or veteran-owned business, for first four years of certification (must file proof of certification with CCB);
  - Emergency projects, if declaration of emergency is made in accordance with rules adopted under ORS 279A.065.
  - Projects that have a total cost of $100,000 or less.

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PWR Requirements – Language Provisions

Public agencies must include certain provisions in public works contracts:

1. **NEW** – include:
   a) A list of work required by the contract that reasonably could be considered to be performed on a system or component described in ORS 279C.800(6)(a)(G)(iv) *(i.e., new off-site fabrication requirements from HB 2688; see slide 15 for list of systems and components)*;
   b) A requirement that any contractor or subcontractor provide the public agency with notices of any work that could reasonably be performed at a location other than the site of work.

OAR 839-025-0020(12)

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PWR Requirements – Language Provisions

Public agencies must include certain provisions in public works contracts:

2. Include a statement that workers will be paid not less than the applicable prevailing wage rates in accordance with ORS 279C.838 and 279C.840.

ORS 279C.830(1)(c)

Agency is liable for unpaid wages if this provision is missing (ORS 279C.855(3))

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PWR Requirements – Language Provisions

Provision in public works contracts:

3. Only when project is subject to BOTH state PWR law and federal Davis-Bacon Act, must include a statement that workers will be paid not less than the higher of the applicable state or federal prevailing wage rate. (*Not required for "residential construction" projects, under OAR 839-025-0037.*)

ORS 279C.830(1)

Agency is liable for unpaid wages plus liquidated damages if this provision is missing

(ORS 279C.855(4))

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PWR Requirements – Language Provisions

Provision in public works contracts:

4. Include a statement that if a contractor fails to pay for labor or services, the agency can pay and withhold these amounts from payments due the contractor.
5. Include a statement that daily, weekly, weekend and holiday overtime will be paid as required in ORS 279C.540. *(Doesn't apply to public universities listed in ORS 352.002.)*

ORS 279C.515; OAR 839-025-0020(2)

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PWR Requirements – Language Provisions

Provision in public works contracts:

6. Include a statement that the employer must give a written schedule to employees showing the number of hours per day and days per week the employee may be required to work.

7. Include a statement that the employer must promptly pay for any medical services they have agreed to pay.

ORS 279C.515; OAR 839-025-0020(2)

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PWR Requirements – Language Provisions

Provision in public works contracts:

8. Require contractor to:
   - File a public works bond with CCB prior to starting work on the project, unless exempt;
   - Include a requirement in every subcontract that the subcontractor file a public works bond with CCB prior to starting work on the project, unless exempt.

ORS 279C.830(2)(b)

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PWR Requirements – Payment Bond

Public agencies must ensure a payment bond is filed when required by ORS 279C.380 and 279C.390.

If the agency fails to verify the contractor has filed a payment bond or posted another security when required, it is jointly liable with the contractor for any unpaid prevailing wages. (ORS 279C.625)

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PWR Requirements – Notice of Public Works

- Agencies must notify BOLI within 30 days after awarding a public works contract subject to PWR law, using the Notice of Public Works form, or WH-81 form.
- If multiple contracts are awarded on a single project, submit a WH-81 form for each contract.
- Include a copy of the disclosure of first-tier subs that was submitted pursuant to ORS 279C.370, when required. *(1st-tier sub list does not apply to public universities listed in ORS 352.002.)*

ORS 279C.835; OAR 839-025-0013

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PWR Requirements – Notice of Public Works

- WH-81 must be submitted on all “public works” as defined in ORS 279C.800(6), including private projects using public funds, even if agency doesn’t award a construction contract. WH-81 is due when the public agency first commits to the provision of funds for the project, first agrees to occupy or use the space, or first agrees to allow construction, reconstruction, renovation, painting, demolition, or removal of hazardous waste to occur on the public property.

ORS 279C.835; OAR 839-025-0013

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PWR Requirements – PWR Fee

- The public agency that awards a public works contract must pay BOLI a PWR fee.
- If multiple contracts are awarded on a single project, a PWR fee must be paid for each contract awarded.
- Fee is 1/10th of 1% of contract amount (contract amount x .001).
  - Min. fee is $250; max. fee is $12,500 (max. increased on 6/5/26).
- Payment is due when the public agency submits the WH-81 form. Include a WH-39 form with payment.

ORS 279C.825; OAR 839-025-0200

*See linked Excel version of WH-81/WH-39 forms on the **PWR home page***

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PWR Requirements – PWR Fee

- On public/private projects, the public agency that provides funds for the project, that will occupy or use the privately owned space, or that will allow construction, reconstruction, renovation, painting, demolition, or removal of hazardous waste to occur on the public property must pay BOLI a PWR fee.
- Fee is 1/10th of 1% of the total project cost (total project cost x .001).
  - Min. fee is $250; max. fee is $12,500 (max. increased on 6/5/26).
- Payment is due when the public agency submits the WH-81 form.

OAR 839-025-0230

*See instructions for linked Excel version of WH-81/WH-39 forms on the **PWR home page***

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PWR Requirements – Certified Payroll

- Contractors and subcontractors on public works projects are required to prepare weekly certified payroll reports (CPRs) and submit them to the public agency by the fifth business day of the following month.
- CPRs are public records and must be made available on request. Redact social security numbers if included on report.
- Contractors may submit their own report as long as it contains all the same information as BOLI's version of certified payroll, the WH-38 form.
  - *Note:* US DOL WH-347 form doesn't meet BOLI requirements.
- Contractors must complete the statement of certification and attach it to the payroll.

ORS 279C.845

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PWR Requirements – Withholding for CPRs

- If a prime contractor does not file certified payroll as required (at least once per month, by the fifth business day of the following month), the public agency MUST withhold 25% of amounts due the prime contractor, in addition to any other required retainage.
- Once certified payroll reports are submitted, the public agency must pay amounts withheld per this statute within 14 days.

ORS 279C.845(7)

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PWR Requirements – Checking CPRs

- Under ORS 279C.845(7), the public agency is not required to verify the accuracy of the contents of the certified payroll reports.
- However, BOLI recommends looking for red flags:
  - Correct classification
  - Correct rate
  - Is zone pay required?
  - Hours and days of week
  - Number of workers

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PWR Requirements – No Division of Projects

- ORS 279C.827(1)(a) prohibits the division of a public works project into more than one contract for the purpose of avoiding the PWR laws.
- BOLI looks at the following factors to determine if multiple contracts constitute a single project:
  - Physical separation of building or structure;
  - Whether a single public works project includes several types of improvements or structures;
  - The anticipated outcome of the particular improvements or structures the agency plans to fund;
  - Whether the structures or improvements are similar to one another and combine to form a single, logical entity having an overall purpose or function;

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PWR Requirements – No Division of Projects

- BOLI looks at the following factors to determine if multiple contracts constitute a single project:
  - Whether the work on the project is performed in one time period or in several phases as components of a larger entity;
  - Whether a contractor or subcontractor and their employees are the same or substantially the same throughout the particular project;
  - The manner in which the public agency and the contractors administer and implement the project;
  - Any other relevant matters.

ORS 279C.827; OAR 839-025-0310

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PWR Requirements – Permissible Division

- If project is a public works under ORS 279C.800(6)(a)(B) or (C) (i.e., a public/private project), commissioner will divide project if appropriate, considering factors, so parts that don't include funds of a public agency or that will not be occupied or used by a public agency will not be subject to PWR law.
- If project includes parts that are owned by a public agency and parts that are owned by a private entity, commissioner will divide project if appropriate, considering factors. If divided, parts that are not public works are not subject to PWR law.

ORS 279C.827

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PWR Requirements – List of Ineligibles

A public agency may not award a public works contract to a firm or individual listed on BOLI's **List of Ineligibles**.

- List of Ineligibles (also referred to as debarment list) is on BOLI's website.
- Debarment generally lasts for three years.
- Any individual on the list is personally ineligible; can't start a new business and new business be awarded a contract for work on a PWR project.
- Applies only to projects covered by Oregon's PWR law.
- If a contractor or agency contracts with someone on the list, it is considered to be intentional circumvention of the law. ORS 279C.860

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Agency Liability – Civil Penalties

- BOLI can assess civil penalties for violations of the PWR laws.
- Civil penalties can be up to $5000 per violation.
- For continuing violations, each day is a new violation.
- See **Public Agency Responsibilities and Potential Liabilities handout** on the PWR home page.

ORS 279C.865

Checklist to Avoid Problems

- √ Submit the List of Planned Public Improvements and the least cost analysis, if required.
- √ Qualifying Agencies submit apprentice and workforce utilization information to BOLI, if required.
- √ Include the applicable prevailing wages and other required language in the specifications and contract documents.
- √ Submit the Notice of Public Works (WH-81) form and the PWR fee (with WH-39 form) to BOLI within 30 days after awarding any public works contract (or at required time for public/private projects).
- √ Require that the contractor has a payment bond or obtain a cashier's check or certified check from the contractor, unless exempt.

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Checklist to Avoid Problems

√ Verify that none of the contractors working on the project is on BOLI's List of Ineligibles.

√ Withhold 25% if prime contractor has not submitted certified payroll as required.

Suggested:

√ Confirm no subcontractors working on the project are on BOLI's List of Ineligibles.

√ Confirm that the correct prevailing wage rates and the details of any benefit plans are posted on site.

√ Verify that all contractors are using the correct work classifications and are paying employees the correct prevailing wage rates.

√ Confirm that all contractors are filing complete and accurate certified payroll.

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BOLI PWR Unit Contacts

Eva Marie Schiedler	eva.schiedler@boli.oregon.gov
Ray Badalich	ray.badalich@boli.oregon.gov
Susan Wooley	susan.wooley@boli.oregon.gov

PWR general email: pwr.email@boli.oregon.gov

BOLI general phone number: (971) 245-3844

Seminar handouts can be found at:

https://www.oregon.gov/boli/employers/Pages/prevailing-wage-seminars.aspx

Scroll down and click on View Description

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