

Construction Contractors Board (CCB) Licensing Public Works Bonds

Not all construction and non-construction companies are required to have a CCB license, but if they employ workers on the project performing manual or physical duties, the work is considered covered work for prevailing wage purposes and a public works bond is required.

The contractor is required to pay workers prevailing wage, submit certified payroll reports, and have a public works bond in place with CCB unless exempt. This exemption is allowed for disadvantaged (DBE), minority, women, or emerging small business enterprises, for the first four years of their certification (ORS 279C.836(7)).

Any contractor that is required to pay prevailing wages on a public project must file a public works bond with CCB. This is the case even if the employer does not have a CCB license. For example, non-construction companies such as temporary staffing agencies are not required to have a CCB license, but if they employ workers on a public works project, they will have to pay those workers the appropriate prevailing wage and will be required to file, or have one filed on their behalf, a public works bond with CCB. ORS 279C.836(4).

A public works bond must provide that the contractor or subcontractor will pay wage claims ordered by BOLI to workers on public works projects.

Certified Payroll Reports and Reporting

References:

Bureau of Labor and Industries (BOLI) Prevailing Wage Rate (PWR) Laws

US Department of Labor (US DOL) Davis-Bacon and Related Acts (DBA) CFR Labor Parts

Oregon Standard Specifications for Construction

General Information and Reporting Requirements

Oregon's Prevailing Wage Rate Laws (PWR) certified payroll reporting is based on the federal US Department of Labor (US DOL) model, so reporting is very similar for state funded and federal aid construction projects.

The Bureau of Labor and Industries (BOLI) provides the WH-38 form while the US DOL provides the WH-347 form for contractors to complete certified payroll reporting. Neither Oregon BOLI nor the US DOL require contractors to use these forms, but whatever certified payroll reports the contractor turns in must contain all the same information stated on the forms including the certification language on the second page of both forms.

Oregon's PWR laws require a bit more information be provided on the certified payroll reports than US DOL/DBA does – mainly project information, so while Oregon's WH-38 can be used for US DOL/DBA project reporting, the federal WH-347 cannot alone be used for reporting Oregon certified payroll.

Another difference between federal aid projects and BOLI only (state funded) are the pay and reporting requirements.

For state funded BOLI only projects, contractors can keep their regular pay schedule (bi-weekly, bi-monthly, monthly) and the certified payroll reports are turned into the contracting/funding agency once a month. All completed payrolls from the current month are due by the 5th business day of the following month.

The US DOL/DBA certified payroll reporting requires contractors pay their workers weekly and submit weekly reports to the contracting/funding agency. A construction project subject to both BOLI PWR and federal US DOL follows the federal weekly reporting requirements.

These highlight the main differences between Oregon PWR and US DOL/DBA certified payroll reporting. Additional information can be found at www.boli.oregon.gov Oregon's PWR Certified Payroll Instructions and www.davisbacon.us.dol US DOL information on certified payrolls.

Delivery Personnel – 20% Guidelines

Background:

US Department of Labor (US DOL) updated rules October 2023 relating to delivery personnel and other clauses

Federal District Court filed a preliminary injunction blocking enforcement of rule changes related to delivery personnel (US DOL final rule injunction) June 2024

BOLI provided guidance July 2024 and July 5, 2024, rate book notice and revised rules based on outcome of the injunction. BOLI updated rules January 2025.

Final Outcomes and Guidance:

US DOL enforces the **“20% of the workweek”** guidelines for material suppliers and delivery personnel.

Delivery personnel, regardless of who employs them, are owed prevailing wages **only** if they spend more than 20% of their work week performing delivery duties (loading, unloading, driving, waiting) on **all** PWR projects being worked on, not solely ODOT only.

ORS 279C.838(3) requires BOLI follow US DOL rules regarding delivery of materials on projects that are subject to both state and federal PWR laws. Therefore, BOLI will enforce the federal “20% of the workweek” guidelines for delivery personnel on projects subject to both state and federal PWR laws.

On projects subject only to Oregon’s PWR laws, BOLI will enforce the temporary Oregon Administrative Rules currently in place – OAR 839-025-0035(6) and (7). Under these rules, delivery personnel employed by **commercial suppliers** do not have to be paid prevailing wages while on PWR projects, provided the only work the delivery personnel perform is limited to driving, delivering the materials or supplies, or waiting for materials or supplies to be loaded or unloaded. Delivery personnel employed by contractors and subcontractors must be paid at the appropriate prevailing wage rate for all time spent delivering materials or supplies on the site of work of a PWR project, unless the aggregate amount of time spent performing the delivery duties does not exceed two hours in a work day, as that term is defined in OAR 839-025-0050.

In the next several months, BOLI will initiate the permanent rule making process for OAR 839-025-0035(6) and (7). To be added to BOLI’s Rules Notice list, to follow the permanent rule making process, or to comment on the proposed final rules, see BOLI’s rulemaking page: <https://www.oregon.gov/boli/about/Pages/rulemaking.aspx>

On-Site Testing and Prevailing Wage (PWR) Guidance

The PWR law requires that contractors and subcontractors pay their “workers” the appropriate prevailing wage rate. And the term “worker” is defined in **OAR 839-025-0004(38)** as a person whose duties are manual or physical in nature, as opposed to duties that are mental, professional, or managerial.

Typically, testing work involves more mental, professional, or technical work. When that is the case, the person performing the testing is not considered a “worker” and is therefore not owed prevailing wages.

However, there are times when the testing involves so much manual labor that it’s no longer incidental to the mental, professional, or technical work. In those cases, the tester would meet the definition of “worker” and would have to be paid the appropriate prevailing wage rate.

Whether testing work must be paid at a prevailing wage rate depends on the type of work being done. If the work involves a significant amount of manual or physical duties, then the work needs to be paid at a prevailing wage rate.

Testing work is not typically included in BOLI’s Definition of Covered Occupations. The classification of testing and balancing work for HVAC systems (TAB technicians) has been added as BOLI determined a significant amount of that work was considered manual labor.

Owner-Operator – Truck Drivers (O/O)

References:

Bureau of Labor and Industries (BOLI) Prevailing Wage Rate Laws (Handbook – reference Contractor and Subcontractor responsibilities – under Truck Drivers)

Oregon Standard Specifications for Construction

Specification 00170.065 Minimum Wage and Overtime Rates for Public Works Projects (4) Owner-Operator Data

Specification 00180.20 (e) Trucking

The Prevailing Wage Rate (PWR) law **does not apply for Owner-Operators of trucks** under the PWR definition. Drivers who own and operate their own trucks and who are independent contractors are not paid prevailing wages for the time spent driving their own trucks. **Operators of other equipment or motor vehicles are not exempt,**

Owner-Operators of trucks are considered independent contractors and are not paid prevailing wage – 1 owner, owns the truck with the name on the side, and drives the truck while on the project site. Independent contractors schedule their own loads/trips, not given direction by a trucking service provider.

By PWR definition Owner-Operators don't employ drivers. Multiple trucks require a subcontract or TSA (a trucking company or service), drivers are paid the appropriate prevailing wage, reported on certified payroll, and a public works bond is filed with the CCB.

Rental of Operated Equipment (ROE)

Reference Oregon Standard Specifications for Construction
Prevailing Wage Rate Laws apply for the operators

00180.20 Subcontracting Limitations
00180.20 (c) Rental of Operated Equipment

“The use of Equipment rented with operators, **except truck hauling of materials which is addressed in 00180.20(e)**, will be allowed without a subcontract only when the following conditions are met – please follow on with subpart language in 1, 2, 3 and 4 in specification 00180.20(c)

Rental of Operated Equipment (ROE) intended use is short-term in duration, typically for a specialized piece of equipment the contractor or subcontractor does not own and used for a specified purpose. An example may be a specialized crane needed for extended reach or height. Use of an ROE is not intended for ongoing work such as sweepers.

The use of this service is typically procured through the contractor or subcontractor via purchase order or some type of method within the contractor’s and subcontractor’s ability to procure services for the construction project.

Operators of rented equipment are entitled to be paid prevailing wages for the work performed on the project site. Proper classifications of work are found in BOLI’s Definitions of Covered Occupations www.boli.oregon.gov. The contractor procuring the rental service provides the public works bond since prevailing wages are due to the operators and certified payroll reports are required to be submitted. Because this rental use is considered short-term, employee interview reports are not necessary.

Trucking Services

Trucking service companies employing drivers require a subcontract or a Trucking Service Agreement (TSA) requiring all prevailing wage laws are met. All drivers working for the trucking company and working on the project site are to be paid prevailing wage, reported on certified payroll, and a public works bond is to be in place with the Construction Contracting Board (CCB) prior to work starting.

Owner/Operators are considered independent contractors and are not paid prevailing wage (1 owner, drives the truck while on the project site, sign on the side of the truck). By definition O/O's don't employ drivers (1 operator/1 truck). Multiple trucks (non O/O's) require a subcontract or TSA (a trucking company or service), drivers are paid the appropriate prevailing wage, reported on certified payroll, and a public works bond filed with CCB.

Not all construction and non-construction companies are required to have a CCB license, but if they employ workers on the project performing manual/physical duties, the work is considered covered work for prevailing wage purposes. The contractor is required to pay workers prevailing wage, submit certified payroll reports, and have a public works bond in place with CCB unless exempt. This exemption is allowed for disadvantaged (DBE's), minority, women or emerging small business enterprises, for the first four years of certification. ORS 279C.836(7)

Any person that is required to pay prevailing wages on a public project must file a public works bond with CCB. This is the case even if the employer does not have a CCB license. For example, non-construction companies such as temporary staffing agencies are not required to have a CCB license, but if they employ workers on a public works project, they will have to pay those workers the appropriate prevailing wage rate will therefore be required to file a public works bond with CCB. ORS 279C.836(4)

A public works bond must provide that the contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries (BOLI) to workers on public work projects.

Oregon law requires anyone who works for compensation in any construction activity involving improvements to real proper to be licensed with the CCB. ORS 701.005(5) OAR 812-002-0760

