



MISSOURI PUBLIC WORK CHECK-OFF LIST

Missouri law prohibits all employers from employing aliens unlawfully present in the United States to perform work within the state of Missouri. Our law mandates that all employees working on the site of public works construction projects must have received safety training. The Prevailing Wage Law requires that not less than the locally prevailing wages be paid to workers on every construction project in the state that is for the public use or benefit or that uses public funds. Public entities must comply with these laws. Failure to comply with many of these laws constitutes a misdemeanor for the employer and for the public official that does not fulfill the responsibilities they impose. The purpose of many of these laws is to protect the tax base, keep workers safe, and ensure that construction remains a high-skilled enterprise. These laws require all public bodies to be good employers and not participate in corner-cutting that hurts our economy, our labor standards and puts worker safety at risk. The Division of Labor Standards (DLS) can help your project to comply with the laws of the state by using the check-off list below.

I

Before Contract Is Let

- Before the contract is let, you must request and receive a [wage order](#) from the DLS (See sections [290.250](#) and [290.325](#), RSMo, enclosed in the laws section) by submitting a “**Request for Wage Determination**” form- PW-3 (enclosed in the forms section) to the Division. The Division emails those requesting wage orders a password with further instructions on how to obtain a wage order.
- Attach the wage order provided by DLS to, and make it a part of, the specifications for the work to be performed under the contract (see section [290.250](#) and [290.325](#), RSMo, enclosed in the laws section).
- Create a contract which incorporates the following:
 - Insert a statement such as: “**Not less** than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under the contract, **must** be paid to all workers performing work under the contract.” (See section [290.250](#), RSMo, enclosed in the laws section.)
 - Insert a statement such as: “The contractor will forfeit a penalty to the contracting public body of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor.” (See section [290.250](#), RSMo, enclosed in the laws section.) For detailed information on rules an occupational titles, see [8 CSR 30-3.010 through 3.060](#) (enclosed in the laws section, Code of State Regulations-Prevailing Wage rules).
 - Insert a statement such as: “The contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour safety training program required under Section [292.675](#), RSMo, (enclosed in the laws section), if they have not previously completed the program and have documentation of having done so.”

- Insert a statement such as: “The contractor will forfeit a penalty to the contracting public body of \$2500 plus an additional \$100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training.” (See section [292.675](#), RSMo, enclosed in the laws section.)
- Insert a statement such as: “During periods of excessive employment (any month immediately following two consecutive calendar months during which the level of unemployment in the state has exceeded five percent as measured by the United States Bureau of Labor Statistics) only Missouri laborers (persons who have resided in Missouri for at least thirty days and intend to become or remain Missouri residents) and laborers from [non-restrictive states](#) (persons who are residents of a state which has not enacted state laws restricting Missouri laborers from working on public works projects in that state, as determined by the Labor and Industrial Relations Commission) (see Excessive Unemployment section), may be employed under the contract, except that other laborers may be used when Missouri laborers or laborers from nonrestrictive states are not available, or are incapable of performing the particular type of work involved, if so certified by the contractor and approved by the contracting officer.” (See sections [290.550 through 290.580](#), RSMo, enclosed in the laws section.)
- Insert a statement such as: “Every transient employer, as defined in section [285.230](#), RSMo, enclosed in the laws section, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section [285.234](#), RSMo, enclosed in the laws section, be liable for a penalty of five hundred dollars per day until the notices required by this section are posted as required by that statute.” (See [list of transient employers](#), and Missouri Department of Revenue [form 3032](#), enclosed in the forms section.)
- Before any work begins, you must send a “**Prevailing Wage Project Notification – Contractor Information Notification**”- form PW-2 (Enclosed in the Forms section) to the DLS. Send it when the contract is awarded to ensure the DLS receives it timely (see section [290.262.10](#), RSMo, enclosed in the laws section, and [8 CSR 30-3.010](#)[3], enclosed Code of State Regulations-Prevailing Wage rules).
- Verify if a wage subsidy, bid supplement or rebate was provided, and if so, if it was provided lawfully. The amount and date of such subsidy, supplement or rebate **must** be reported to the public body within 30 days of receipt of payment (see section [290.095](#), RSMo, enclosed in the laws section).
- Verify that transient or out of state employers file a financial assurance instrument and post in a prominent and easily accessible place at the work site: (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance verified by the department of revenue; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply shall be liable for a penalty of five hundred dollars per day

until the required notices are posted. Transient employers that fail to conclusively show that they have filed the required financial assurances must, before starting performance of any contract with a political subdivision, provide an amount equal to a portion of its labor costs to be held in escrow by the political subdivision. Failure of a political subdivision to properly escrow these funds will make it ineligible to receive state funds for public works projects for a period of one year (see sections 285.230 through 285.234, RSMo, enclosed in the laws section).

- Verify that any and all foreign corporations transacting business on your project have obtained a “[Certificate of Authority](#)” form- Corp-42 from the Missouri Secretary of State (enclosed in the forms section). Every foreign corporation now doing business in or which may hereafter do business in this state without a certificate of authority shall be subject to a fine of not less than one thousand dollars (see sections [351.572](#) and [351.574](#), RSMo, enclosed in the laws section).
- Verify that no business entity or employer involved with your project employs an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of \$5,000 the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services (see section 285.530 RSMo, enclosed in the laws section). Failure to comply may cause a public body to be ineligible for any moneys provided through grants administered by any state agency (see sections [67.307](#) and 285.550, RSMo, enclosed in the laws section).

II

While Contract Is Being Performed

- If you are aware of any possible prevailing wage violation, you must report it to the DLS using the “**Prevailing Wage Complaint form**”- PW-6 (enclosed in the forms section). The DLS will assist you and your staff with complying with the law. A public body cannot make final payment until the law is complied with.
- A legible list of all prevailing wage rates **must remain** posted in a prominent and easily accessible place at the worksite by each contractor and subcontractor on the project. **Require** the notice to be posted during the full time that any worker is employed on the job (see section [290.265](#), RSMo, enclosed in the laws section).
- Review records of wages paid to all workers employed on the contract to assure workers are paid properly (see section [290.290](#), RSMo, enclosed in the laws section). Records must be kept within the state by the contractor and each subcontractor for a period of one year following completion of the public works project. DLS provides a Contractor Payroll Records form ([LS-57 form](#)) for contractors and subcontractors to use to assure provision of the payroll information required (see [8 CSR 30-3.010](#)[7], enclosed Code of State Regulations- Prevailing Wage rules).
- Monitor any workers classified as independent contractors and issued 1099 tax forms. It is against the law for an employer to knowingly misclassify a worker or fail to claim the worker as an employee (see section 285.503, RSMo, enclosed in the laws section). The Attorney General may seek an injunction prohibiting the employer from engaging in such conduct. If the misclassification is occurring on a public works project, such an injunction could stop the project (see section [285.512](#), RSMo, enclosed in the laws section). Report misclassified workers with the “**Report Worker Misclassification/1099 Abuse**” form [MODES-4610](#) (enclosed in the forms section).

III

Before Contract Is Fully Paid

- Before final payment can be made, the general contractor and all subcontractors **must** file an “**Affidavit of Compliance**” form PW-4 (enclosed in forms section) with the contracting public body. The affidavit must state the party has fully complied with Missouri Prevailing Wage Law, and the public body must verify that the correct wages were paid. No payment can be legally made by the public body to the contractor(s) until the affidavit is filed in proper form and order with the public body (see section [290.290](#) and [290.325](#), RSMo, enclosed in the laws section).
- Withhold and retain any and all amounts due as a result of any violations of the Prevailing Wage Law (see section [290.250](#), RSMo, enclosed in the laws section).

Failure to comply with the requirements of the Prevailing Wage Law can result in civil action, including an injunction stopping work on a project, and in criminal fines of up to \$500 and up to six months imprisonment for **each day** there is a violation.

The Division of Labor Standards always is available to answer questions and provide assistance with a prevailing wage project. Please contact us anytime at:

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