

Updated MnDOT Labor Compliance Contract Provisions

Background

The MnDOT Prevailing Wage Special Provisions clarify contractor responsibilities as they relate to existing state and federal prevailing wage requirements and the Fair Labor Standards Act (FLSA). The provisions incorporated into contracts prior to February 2017 have not been updated since 2006.

In MnDOT's efforts to periodically review contract documents, the Labor Compliance Unit and the Office of Chief Counsel updated the provisions by: adopting plain language, rearranging sections to read in sequential order, including language not previously addressed, and updating statutory references. Below is a summary of the changes.

Practical Changes

- Rearranged sections to read in sequential order
- Revised to comply with the Governor's Plain Language Executive Order
- Inserted footnotes to previously-referenced state and federal law and case law

New Language

- Inserted definitions referenced in the document, including:
 - apprentice
 - "bona fide" fringe benefits
 - certified payroll reports (CPRs)
 - "fringe benefit"
 - journeyworker
 - total prevailing wage rate
 - truck rental rates "schedule"
 - "wage decision"
 - "Work" under the contract as per the recent *Donovan v. MnDOT* court decision
- Clarified application of provisions
- Inserted reference to e-Verify program and vendor registration requirements
- Clarified procedure to dispute classification determinations
- Discussed how to calculate compensation for workers performing Work in more than 1 classification
- Introduced applicability of highway and heavy and commercial wage decisions, and how to pay according to multiple wage decisions
- Clarified how to request a missing wage rate
- Updated guidance on how to calculate wages for salaried employees
- Inserted statutory reference to prohibited equipment, supply, and travel expense deductions
- Inserted language regarding travel time, lodging, and travel costs

- Defined state and federal requirements for funded and unfunded fringe benefit plans, with example calculations
- Updated guidance on overtime calculations
- Updated apprentice language
- Inserted independent contractor language to address misclassification of workers
- Updated the trucking section to address recent case law
- Clarified Month-End Trucking reporting requirements
- Added new cross-reference to AASHTOWare CRL electronic payroll reporting provisions
- Updated apprentice language
- Clarified broker fees
- Updated reference to Standard Specification 1801 holding primes responsible for unpaid wages
- Updated reference to Responsible Contractor Law
- Inserted citation to False Claims Act
- New example calculations in appendices