

RULES AND REGULATIONS RELATING TO PREVAILING WAGES

- 1) Any contractor who has been awarded a contract for a Public Works Project in excess of \$1,000.00, or any subcontractor performing work on said project, shall be liable for the payment of prevailing wages under this chapter regardless of whether or not the prevailing wages were listed in the contract between the contractor and the awarding authority of the state or political sub-division, as required by law.
- 2) Any contractor who has been awarded a contract for a Public Works Project in excess of \$1,000.00, shall be liable for the payment of prevailing wages under this chapter regardless of whether or not a subcontractor may be the primary obligor. The contractor shall ensure that a subcontractor pays the prevailing wage to his employees and otherwise complies with the provisions of R.I.G.L. Chapter 37-13.
- 3) Before awarding a contract for a Public Works Project, an awarding authority shall first determine from the Director of Labor whether the proposed contractor has been debarred under R.I.G.L. 37-13-16, and shall notify all bidders that the prevailing wage is required as a condition of the contract.
- 4) All complaints filed for noncompliance with Chapter 13, Title 37 of the General Laws of Rhode Island shall be in writing, and on forms issued by the Department of Labor. The written complaints must be filed with the Department of Labor within twenty-four (24) months of the completion of the project.
- 5) Any contractor or subcontractor doing work on a Public Works Project, must pay the prevailing wage for the classification of the work performed by an apprentice unless such apprentice is registered under and apprenticeship program sanctioned by the Rhode Island Department of Labor's Apprenticeship Council.
- 6) The Director of Labor shall notify an awarding authority of the name of any contractor that has violated any provisions of this chapter.
- 7) Any proceeding to debar a contractor from bidding on a Public Works Project under the provisions of R.I.G.L. Chapter 37-13, may be brought against the principals, officers or successors in interest of such contractor, where such principals, officers or successors in interest are responsible for the violation of this chapter.
- 8) "No person, contractor, firm, business or corporation shall by any special contract or arrangement with an employee or by any other means exempt himself from coverage from R.I.G.L. Chapter 37-13. For purposes of this chapter individuals performing any service shall be deemed to be employees and shall be subject to the provisions of Chapter 37-13 even though the employee may hold share(s) of stock in the enterprise. Such presumption of employee status shall not apply if it is shown that the individual has been and will continue to be free from control and direction in connection with the performance of such service under this contract, and such service is performed either outside the usual course of business for

which the service is performed or is performed outside of all places of business of the enterprise; and, said individual is customarily engaged in an independently established occupation, profession or business of the same nature as involved in the service performed. The failure to withhold federal or state income taxes or unemployment compensation from an employee's wages, or to provide workers' compensation coverage for employees, shall not be used for the purposes of making a determination hereunder. The president and treasurer of a corporation or any officer or agent having management of such corporation shall be deemed the employer hereunder."

9) The Department of Labor will be guided by the General Wage Decisions in accordance with Section 37-13-8 of the General Laws of Rhode Island. Said General Wage Decisions shall be effective upon filing with the Rhode Island Secretary of State's Office.

10) In order to comply with Section 37-13-13 of the General Laws of Rhode Island, a certified payroll record shall be a weekly compilation of all wages, taxes and benefits paid and/or withheld from employees. Said information shall be recorded weekly on the form attached hereto and marked as Exhibit "A".

11) Where the Director of Labor has found a violation and entered as decision, the contractor and/or subcontractor shall pay all wages due, interest and penalties assessed within thirty (30) days of the date of the decision. The Director of Labor shall upon application by the faulting contractor and/or subcontractor, extended the period for payment, provided a request is made within twenty (20) days of the date of decision and a written agreement or repayment is entered into by the Director of Labor and the contractor and/or the subcontractor. The repayment agreement shall become void in the event the contractor and/or subcontractor fail to make payments as agreed.

12) In enforcing the provisions of Chapter 13 of Title 37, the Director of Labor may order an awarding authority to withhold a percentage of the contract price from a contractor and/or subcontractor. The amount withheld shall be equal to the amount of the wage due, interest and penalties to satisfy the decision.

13) All service and maintenance contracts with the State of Rhode Island or political subdivision therefore shall comply with the provisions of Chapter 13, Title 37 where the contract price exceeds \$1,000.00 and the work includes alterations, installation, repairs or construction.

14) The Director of Labor hereby adopts the position of the United State's Department of Labor that all independent contractors and/or subcontractors shall comply with the provisions of Chapter 13, Title 37.

DEFINITIONS

- A. Successor in interest in one who continues to retain the same right, control or interest in a new business, firm, or corporation which purchased or merged with a former business, firm or corporation.
- B. A Principal is a person who has a majority of the ownership of a business, firm or corporation.