



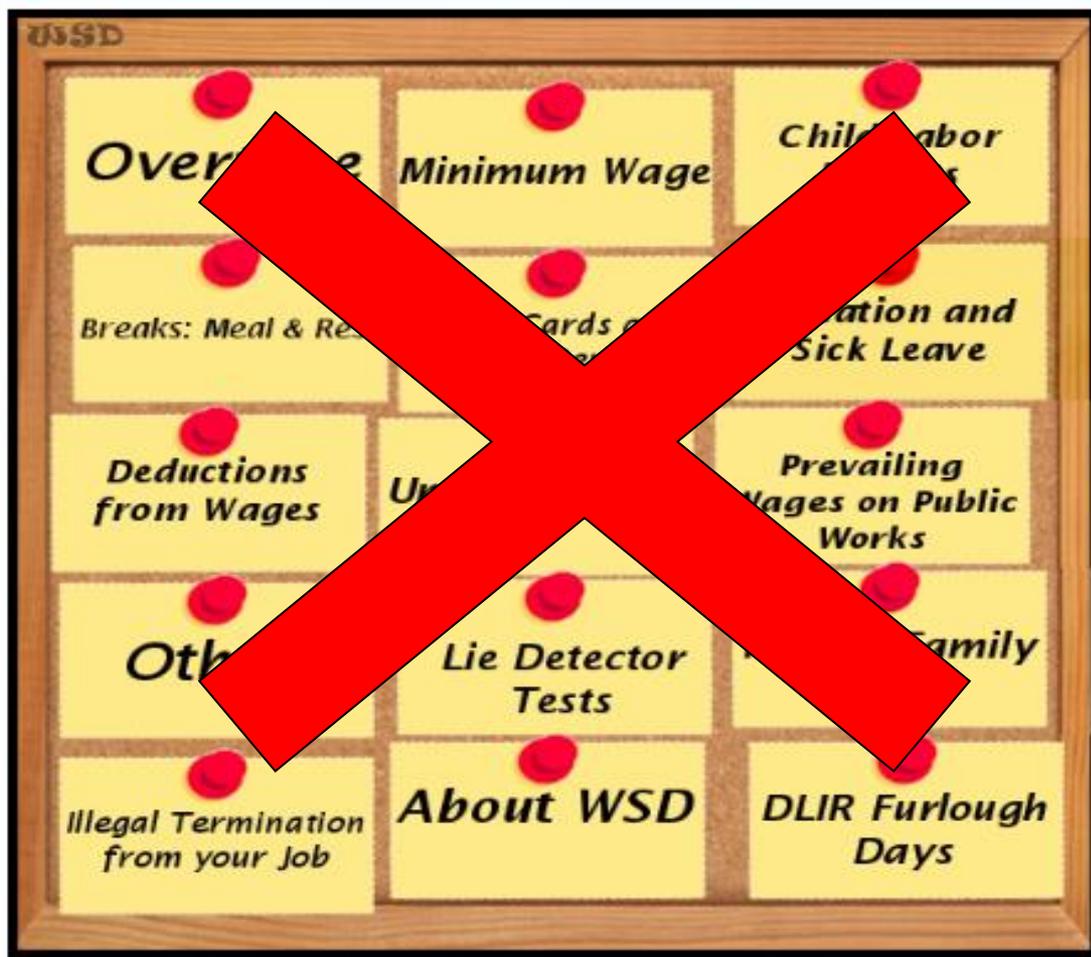
Chapter 104 Overview Wages and Hours of Employees on Public Works Projects

July 2013

<http://labor.hawaii.gov/wsd>

dliir.wages@hawaii.gov

Wage Standards Division



- WSD Links**
- Find a Law
 - Forms
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 - Publications
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 - Contact Information
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- Quick Links**
- Chapter 104
 - Suspension List rev3-1-2011
 - Free 104 Workshop Flyer

Hawaii.gov/labor/wsd

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State of Hawaii Wage Standards Division



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PREVAILING WAGES ON PUBLIC WORKS

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[Chapter 104 Suspension List](#)

Vision: Hawaii, the Aloha State, is a special place where work environments are beneficial to the well being of individuals and where everyone respects each other's rights and benefits.

Mission: The Wage Standards Division, as an active community participant, assures a lawful working environment by:

- Equitably administering and enforcing labor laws for which the division is responsible;
- Being responsible to our customers; and

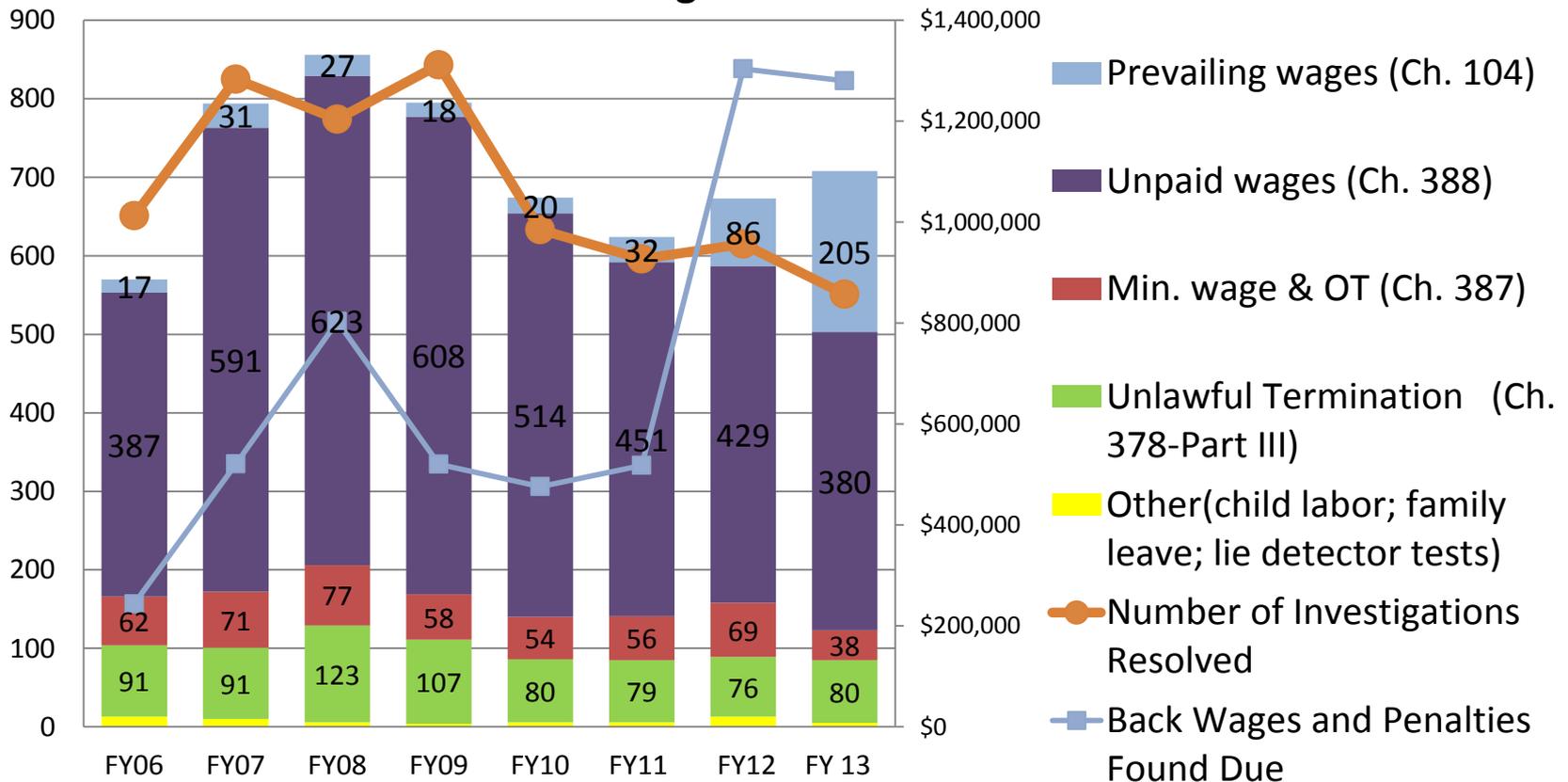


NOTICE OF SUSPENSION - Chapter 104, HRS.				
Name of Person or Firm	Reason	Suspended From:	Suspended To:	Remarks
A & J Painting, LLC	falsified records	04/12/2012	04/11/2015	1, 2
American Industrial Insulation, LLC	falsified records	09/19/2011	09/18/2014	1, 2
Constante Medina dba Voltage Electric	delayed investigation	11/15/2012	11/14/2015	1, 2
Cy K. Crabbe dba Aikane Electric dba Aikane Electric, LLC dba Aikane Electric Services dba Aikane Electric Services, LLC	delayed investigation	01/15/2013	01/14/2016	1, 2
Malafu Contractors, LLC	delayed investigation	01/19/2012	01/18/2015	1, 2
Paul B.J. Suh fka Bong Jun So dba B.J. Brothers' Painting & Decorating dba BJ's Brothers Painting	falsified records	11/14/2012	11/13/2015	1
Stanley Kipu dba Stan's Glass	3rd violation	06/09/2011	06/08/2014	1
Stauffer Enterprises, Inc.	falsified records	08/31/2012	08/30/2015	1
Yama's Roofing, Inc.	falsified records	11/05/2010	11/04/2013	1

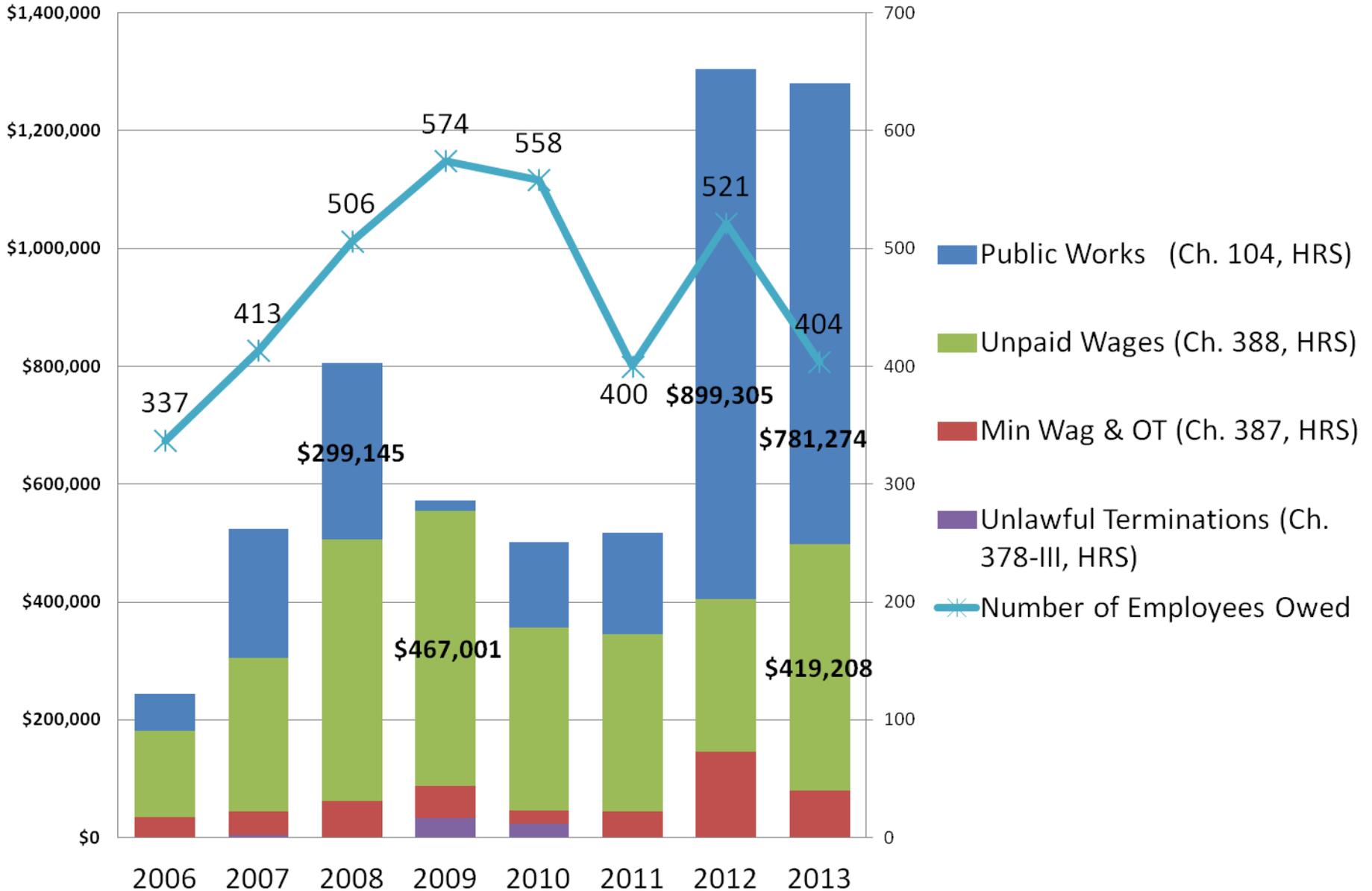
"New work" means bidding on new projects and any current projects that the

Protecting Wages

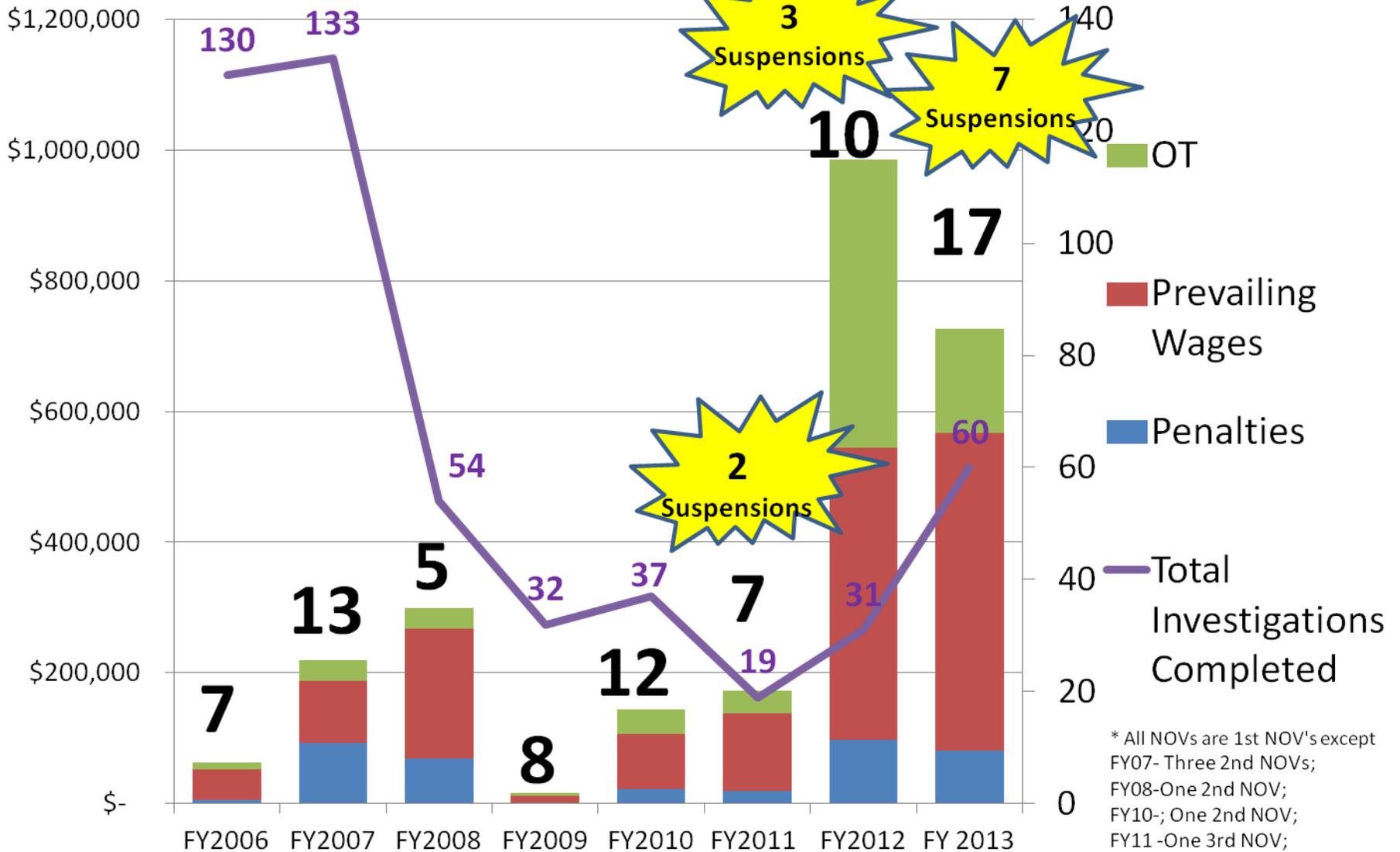
Wage Standards Division, DLIR
Claims Taken and Investigations Resolved



Wages and Penalties Found Due FY 06-FY13



Chapter 104 Notice of Violations Issued*



* All NOV's are 1st NOV's except
 FY07- Three 2nd NOV's;
 FY08-One 2nd NOV;
 FY10-; One 2nd NOV;
 FY11 -One 3rd NOV;
 FY12 - One 2nd NOV;
 FY13 - One 2nd NOV

following a federal standard



FOLLOW THE MONEY

Prevailing Wages on Public Works

FEDERAL

Davis-Bacon

Applies to all funds for construction directly received from federal agencies (including ARRA funds)

(Note: McNamara –O’Hara

Applies to all service contracts of ARRA funds)

STATE

Chapter 104, Hawaii Revised Statutes

Applies to all ARRA funds for construction released through state city or county agencies.

This requirement follows all contractors and sub-contractors down to the actual laborers and mechanics doing the work.

Differences

Chapter 104

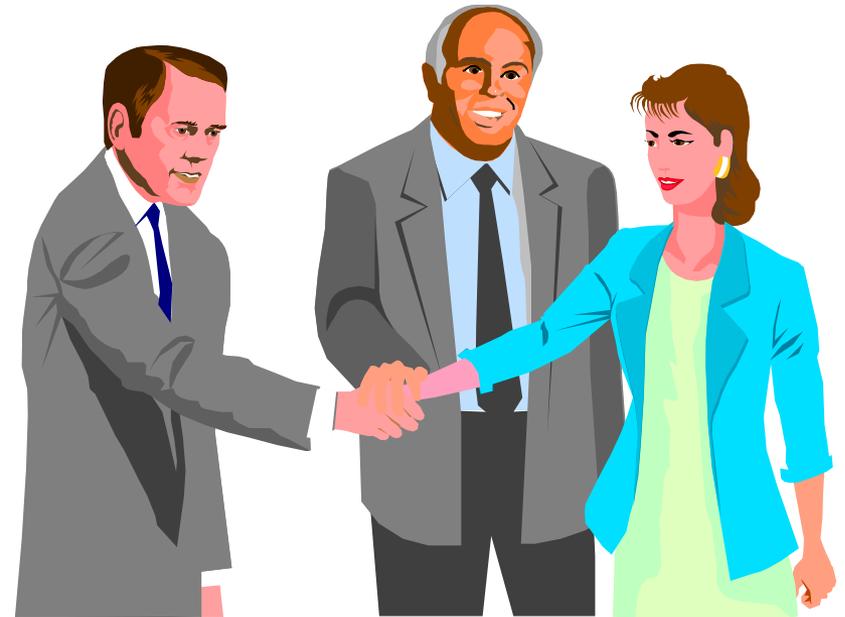
- OT – after 8 hrs/day or Sat, Sun or State Holidays
- Wage Rate Schedule issued 2 times a year
- Reporting itemized fringe benefits & date paid
- All laborer & mechanics
- Only DLIR can issue penalties

Davis Bacon

- OT- after 40 hours a week
- Wage Rate Schedule issued only once with the project
- WH-347 Cert. payroll
- *Owner-operated truckers* special treatment
- Contracting Agency can issue penalties

Enforcement Responsibilities

- Both the Contracting Agency and the Department of Labor and Industrial Relations have joint responsibility



(Section 104-2 (e) withhold, (f) include 104 req in contract, 104-3(a) review certified payrolls, 104-4 terminate and go against sureties for failure to pay; 104-21 report violations, 104-24 withhold and order payment)

NOTICE TO WORKERS

WAGE INFORMATION

This project is subject to State Law, Chapter 104. Every laborer and mechanic employed on this job site must be:

1. PAID not less than the prevailing wage for the job classification - See schedules below. (Note: The Wage Rate Schedule may also be downloaded at - <http://labor.hawaii.gov/rs>)
2. PAID overtime at not less than time and one-half for all hours worked after 8 hours each day, and for all hours worked on Saturdays, Sundays, and legal State holidays.
3. PAID fringe benefits for all hours worked, including overtime.
4. PAID every week, within five working days after the end of the pay period.
5. GIVEN a copy of the applicable rate schedules (see below), unless covered by a collective bargaining agreement.

If You Don't Receive the Above, Report to:

Project Representative/Inspector: _____ Phone: _____

For more information, contact the Department of Labor and Industrial Relations, Wage Standards Division:

OAHU (Honolulu)
830 Punchbowl Street
Room 340
Phone: 586-8777

HAWAII (Hilo)
75 Aupuni Street
Room 108
Phone: 974-6464

WEST HAWAII
(Kealahou)
Post Office Building
Phone: 322-4808

KAUAI (Lihue)
State Building
3060 Eiwa Street
Room 202
Phone: 274-3351

MAUI (Wailuku)
2264 Aupuni Street
Phone: 243-5322



H104-1 (Rev. 6/08)

COVERAGE & CLASSIFICATION

- Chapter 104 is applicable to all state and county construction contracts in excess of \$2,000. (104-2(a), HRS)
- Contract means any type of agreement regardless of what the agreement may be called including:
 - Purchase orders
 - vouchers

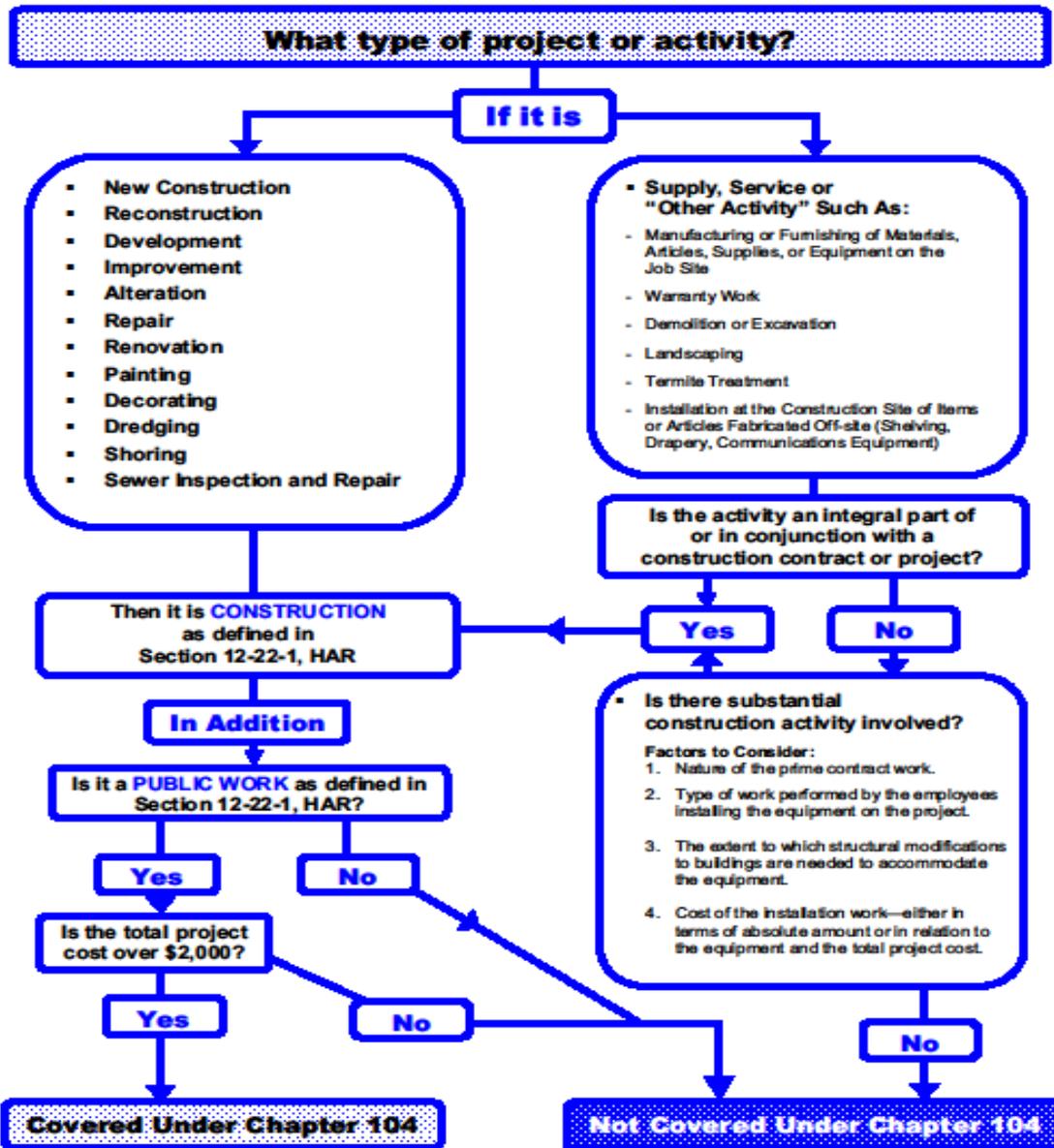
Unlikely Places of Coverage

- Act 61, Regular Session of 2007 added construction projects funded by Special Purpose Revenue Bonds (104-2(g)(h), HRS)
- Act 62, Regular Session of 2007 added construction projects for buildings where more than 50% is leased to a state or county agency. (104-2.5, HRS)

Determining coverage

Activity performed by a **laborer or mechanic** employed **at the construction site** and includes activities that are an integral part of or in conjunction with a construction contract, or if there is substantial construction activity involved in a supply, service, or other type of non-construction contract.

DETERMINATION OF COVERAGE UNDER CHAPTER 104, HRS



DLIR Wage Standards Division, Rev. 7/97

Included activities:

- Warranty work except when done by the manufacturer on defective products or equipment
- Manufacturing or furnishing of materials, articles, supplies, or equipment on the job site
- Demolition or excavation
- Landscaping
- Termite Treatment
- Some survey work during construction (See guidelines at hawaii.gov/labor/wsd)
- Signal man (See guidelines at hawaii.gov/labor/wsd)
- Installation of prefab items



Truck Drivers employed on public works projects

- Chapter 104 is applicable when a laborer or mechanic employed at the public work site is engaged in transporting materials, supplies or equipment: (HAR 12-22-1.1)
 - To or from a public work site; or
 - Between a public work sites or dedicated sites
- Proper prevailing wage for the driver is determined by the type of truck driven

Classification Listing Examples



- Equipment Operator (Group 1)
- Laborer II
- Carpenter (foreman)
- Roofer Apprentice - level, percentage, or step (*Indenture date*)

Apprentices

- Apprentice or trainee wage rates in the Wage Rate Schedule apply only to:
 - Registered participants in recognized programs by the Workforce Development Division (586-8877)
 - The allowable ratio of journeyworker to apprentices is met.
 - Apprentice certification is documented to Contracting Agency
 - Indentured date & step or level is listed on certified payrolls

WRS - Updates

- Current is WRS 481 Issued February 18, 2013
- Updated twice a year – on or about Feb. 15 and Sept 15
- Available on the Internet at Index by Topic at Wage Rate Schedule
- When the prevailing wage increases the contractor must increase the wages accordingly. Future anticipated increases have been included where possible.

JAN	FEB★	MAR
APR	MAY	JUN
JUL	AUG	SEP★
OCT	NOV	DEC

On-line Notification of updates

The Wage Rate Schedule (WRS) Bulletin No. 481, effective February 18, 2013, is available on the Internet at:

<http://labor.hawaii.gov/rs>

Please call the Research & Statistics Office at (808) 586-9019 if you have any questions.

CERTIFIED PAYROLLS

- Classification ✓
- Weekly Pay Requirement ✓
- Prevailing Wages
- Fringe Benefits
- Overtime
- Record Keeping – 3 years

Prevailing Wages

- The minimum rate of pay for employees to be paid for the type of work performed on the job site.

Basic Hourly Rate

+ Fringe Benefits

= Prevailing Wage

- Any combination of basic hourly rate and allowable fringe benefit to meet the applicable prevailing wage
- **NEW** as of Oct 1, 2009. Allowable Fringe Benefits must be itemized.

EXAMPLE: Refer to WRS 481 pg 1

Carpenter's rate as of 2/18/2013

- Basic hourly rate = \$39.25
- Fringe hourly rate = \$19.92
- Prevailing wage = \$59.17

Employer can either:

- Pay the basic and provide allowable fringe valued at \$19.92; or
- Pay the whole \$59.17 directly to employee; or
- Pay any combination of the basic hourly rate & fringe which equals \$59.17 or more

WAGE RATE SCHEDULE BULLETIN NO. 481

Classification	Current			2013			2014			2015			Remarks See Pg 6-7
	Prevailing Wage Total	Basic Hourly Rate	Fringe Hourly Rate										
PLUMBER: (Note: 2 increases in 2013) Plumber; Pipefitter; Refrigeration Fitter; Heating & Air Conditioning Fitter; Sprinkler Fitter; Steamfitter	1/6/13			7/7/13			1/5/14						9
	\$60.86	\$37.60	\$23.26	\$61.86	\$38.10	\$23.76	\$62.11	\$38.35	\$23.76	-	-	-	
* ROOFER: (Note: 2 increases in 2013) Shingle, Tile, Built-up Roofing	2/18/13			9/1/13			9/7/14			9/6/15			12
Coal Tar Pitch	\$52.83	\$36.10	\$16.73	\$53.98	\$37.10	\$16.88	\$55.23	\$38.10	\$17.13	\$55.98	\$38.85	\$17.13	12
	\$88.93	\$72.20	\$16.73	\$91.08	\$74.20	\$16.88	\$93.33	\$76.20	\$17.13	\$94.83	\$77.70	\$17.13	12
SANDBLASTER OR WATERBLASTER: Use wages of craft to which sand or water blasting is incidental.													
SHEETMETAL WORKER	9/2/12			3/3/13									10,12
	\$58.30	\$36.10	\$22.20	\$59.30	\$36.75	\$22.55	-	-	-	-	-	-	
* TAPER	2/18/13												12
	\$58.65	\$40.00	\$18.65	-	-	-	-	-	-	-	-	-	
TERMITE TREATER	9/17/12												
	\$13.85	\$10.50	\$3.35	-	-	-	-	-	-	-	-	-	
TERRAZZO:	9/17/12			9/2/13									
Terrazzo Setter	\$58.77	\$35.60	\$23.17	\$60.32	\$37.10	\$23.22	-	-	-	-	-	-	2,12
Terrazzo Base Grinder	\$56.96	\$33.79	\$23.17	\$58.51	\$35.29	\$23.22	-	-	-	-	-	-	2,12
Certified Terrazzo Floor Grinder and Tender	\$55.41	\$32.24	\$23.17	\$56.96	\$33.74	\$23.22	-	-	-	-	-	-	2,12
Terrazzo Floor Grinder	\$53.91	\$30.74	\$23.17	\$55.46	\$32.24	\$23.22	-	-	-	-	-	-	2,12
TILE SETTER:	9/17/12			9/2/13									
Ceramic Hard Tile; Marble Setter	\$58.77	\$35.60	\$23.17	\$60.32	\$37.10	\$23.22	-	-	-	-	-	-	2,12
Certified Ceramic Tile & Marble Helper	\$55.41	\$32.24	\$23.17	\$56.96	\$33.74	\$23.22	-	-	-	-	-	-	2,12
TRUCK DRIVER:	9/17/12												
Concrete Mixer	\$29.86	\$27.50	\$2.36	-	-	-	-	-	-	-	-	-	
Concrete Mixer/Booster	\$42.23	\$30.53	\$11.70	-	-	-	-	-	-	-	-	-	
	2/18/13												
* Dump Truck, 8 cu. yds. & under (water level); Water Truck (up to & including 2,000 gallons)	\$63.25	\$36.49	\$26.76	-	-	-	-	-	-	-	-	-	12
* Flatbed, Utility, etc.	\$62.98	\$36.22	\$26.76	-	-	-	-	-	-	-	-	-	12
* End Dump, Unlicensed (Euclid, Mack, Caterpillar, or similar); Tractor Trailer (hauling equipment)	\$64.64	\$37.88	\$26.76	-	-	-	-	-	-	-	-	-	12
* Semi-Trailer, Rock Cans, or Semi-Dump	\$64.21	\$37.45	\$26.76	-	-	-	-	-	-	-	-	-	12
* Slip-in or Pup	\$64.53	\$37.77	\$26.76	-	-	-	-	-	-	-	-	-	12
* Tandem Dump Truck, over 8 cu. yds. (water level); Water Truck (over 2,000 gallons)	\$63.56	\$36.80	\$26.76	-	-	-	-	-	-	-	-	-	12

What is an allowable fringe benefit?

- A fringe benefit is a contribution irrevocably made by a contractor to a trustee or to a third person according to a fund, plan or program in providing benefits to a laborer or mechanic, such as medical, life insurance, and pension.

An allowable fringe benefit must have these 3 things:

- A. Fall into one of six categories
 - Health and Welfare
 - Life or disability insurance
 - Vacation and holiday pay
 - Pensions
 - Apprenticeship or similarly approved programs
 - Other bona fide fringe benefits determined by DLIR
- B. Be made at least monthly to the eligible fund, plan or program.
Example: *HMSA & Kaiser Health Plans*
- C. Be paid for all hours worked including overtime hours

METHOD TO DETERMINE THE FRINGE BENEFIT HOURLY CREDIT

- The allowable hourly fringe benefit credit is determined by dividing the monthly contribution rate by **173** hours. (HAR 12-22-4)
 - Ex: Monthly Health Premium is \$173.
Hourly Credit: $\$173 \div 173 \text{ hrs} = \$1.00/\text{hr}$
- If the prevailing wage is \$59.17/hr the employer can claim \$1/hr fringe and pay \$58.17/hr as the rate.

Calculating Overtime Prevailing Rate for Carpenter

	Straight Time		Overtime
Basic Hourly Rate	\$39.25	X1.5	\$58.875
Fringe Benefit	\$19.92	=	\$19.92
Prevailing Rate	\$59.17		\$78.795
Possible Fringe Benefit Credit	\$1.00		\$0
Amount to Pay	\$58.17		\$78.795

Format of Certified Payrolls

- No standard form required; any form that includes all required information and is certified is acceptable **including itemized fringe benefits.**
- DAGS has an electronic form that assists with compliance. www.hawaii.gov/pwd look for **Construction Administration Forms - Construction Ongoing**
 - [STATEMENT OF COMPLIANCE & DAGS-ECP FOR PAYROLL AFFIDAVITS](#)
- Federal form WH-347 is also available online at www.dol.gov/esa Click on Forms

STATEMENT OF COMPLIANCE
(Certification Under Penalty of Perjury)

Date: at:

I, do certify under penalty of perjury:

- 1) That all of the information in this report is true and correct.
- 2) That I pay or supervise the payment of the persons employed by on the during the payroll week of that all persons employed on said project will be paid the full weekly wages earned; that no rebates have been or will be made either directly or indirectly from the full wages earned by any person, other than permissible deductions, as described below:
FICA(Social Security), Medicare, Federal Income Taxes, State Income Taxes, State Disability (SDI), Court-ordered Wage Attachments.
- 3) That any payrolls otherwise under this contract required to be submitted are correct and complete; that the wage rate for laborers or
- 4) That any apprentices employed on the above project are duly registered in a bona fide apprenticeship program registered with, or
- 5) That:

a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above-referenced payroll, payments of

Following is a breakdown of the hourly fringe benefit contributions:

	<u>Classification</u>	<u>Pension/Annuity</u>	<u>Health & Welfare</u>	<u>Vacation/Holiday</u>	<u>Training</u>	<u>Total OTHER</u>	<u>Total Fringes</u>
a	Example	\$1.23	\$2.23	\$3.33	\$6.34	\$4.45	\$17.58
b						\$0.00	\$0.00
c						\$0.00	\$0.00
d						\$0.00	\$0.00

	<u>Classification</u>	<u>(Type)</u>	<u>(Type)</u>	<u>(Type)</u>	<u>(Type)</u>	<u>(Type)</u>	<u>Total OTHER</u>
a	Example	\$3.23	\$1.22				\$4.45
b							\$0.00
c							\$0.00
d							\$0.00

b) Exceptions

<u>Trade/Craft Classification</u>	<u>Explanation</u>

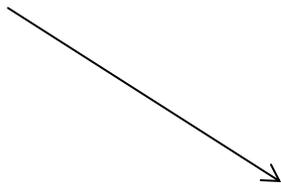
I reaffirm the intent of our company to comply with the requirements of HRS chapter 104, and all applicable federal and State laws

Name

Title

Signature and Date - Electronic or Inked

Signature required at bottom of form



CERTIFIED PAYROLL REPORT

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Public Works Division

REPORT SUBMISSION DATE: 26-Oct-07

Name is of: Contractor:

Subcontractor:

THIS IS AN AMENDED FORM

PAYMENTS MADE ON SAME DAY TO ALL EMPLOYEES

NAME: Hasbens Contractors, Inc.

PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT NO.	VENDOR CODE
3	October 20, 2007	CHERRY COURTHOUSE, Remodel for new technology	99-99-9999	000003-98

NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	NO. OF HOURS/ WEEKS EMPLOYED	WORK CLASSIFICATION	OT. ORST.	DAY AND DATE							TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	HOURLY DEDUCTION RATE						GROSS DEDUCTIONS	NET WAGES PAID FOR WEEK	DATE PAID TO EMPLOYEE
				S	M	T	W	TH	F	S				FICA	FED. WITH-HOLDING TAX	STATE WITH-HOLDING TAX	MEDICARE	OTHER DEDUC.	TOTAL DEDUCTIONS			
				14	15	16	17	18	19	20				HOURS WORKED EACH DAY								
Rocco Bonabena		Carpenter	O							8.00	8.00	\$52.43	\$419.400	\$3.00	\$2.00	\$1.00	\$1.00	\$0.00	\$7.00	\$280.00	\$1,257.800	26-Oct-07
			S	8.00	8.00	8.00	8.00	8.00				\$34.95	\$1,118.400									
			T	0.00	8.00	8.00	8.00	8.00	0.00	8.00	40.00		\$1,537.800									
Kenneth Morton		Electrician- Line/Wire Installer	O	2.00							2	\$55.13	\$110.250	\$3.00	\$2.00	\$1.00	\$1.00	\$0.00	\$7.00	\$280.00	\$1,226.750	
			S	8.00	6.00	6.00	6.00	6.00	6.00	6.00	38	\$36.75	\$1,396.500									
			T	0.00	10.00	6.00	6.00	6.00	6.00	6.00	40.00		\$1,506.750									
Keoni Lee		Ironworker	O	2.00							2	\$45.00	\$90.000	\$3.00	\$2.00	\$1.00	\$1.00	\$0.00	\$7.00	\$280.00	\$950.000	
			S	8.00	6.00	6.00	6.00	6.00	6.00	6.00	38	\$30.00	\$1,140.000									
			T	0.00	10.00	6.00	6.00	6.00	6.00	6.00	40.00		\$1,230.000									

Employee Information

	A	B	C	D	E	FG	H	I	J	K	LM	N
1	STATE OF HAWAII					<u>CERTIFIED PAYROLL REPORT</u>					DAGS.ECP v1.0_1205	
2	DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES											
3	Public Works Division					REPORT SUBMISSION DATE:					26-Oct-07	
4												
5	Name is Contractor:		<input checked="" type="checkbox"/>				<input type="checkbox"/>		THIS IS AN AMENDED FORM			
6	Subcontractor		<input type="checkbox"/>				<input checked="" type="checkbox"/>		PAYMENTS MADE ON SAME DAY TO ALL EMPLOYEES			
7	NAME: Hasbens Contractors, Inc.											
8	PAYROLL NO.	FOR WEEK ENDING		<u>LOCATION</u>					VENDOR CODE			
9	34	October 20, 2007		CHERRY COURTHOUSE, FIX ROTTEN TREES					000003-98			
11	<u>NAME</u>			<u>ADDRESS</u>					<u>SOC SEC NO.</u>			
12	Rocco Bonabena			99 Uewelo Pl, Honolulu, HI 96819					xxx-xx-9999			
13	Kenneth Morton			29 Pualei Circle					xxx-xx-0009			
14	Keoni Lee			222 Nuuanu Dr.					xxx-xx-9000			
15												
16												
17												
18												
19												

Penalties

- \$1000 and **suspension** for delay or for **certification of falsified payrolls** (104-22(b) HRS)
- Notification of Violation (NOV) (104-24,HRS)
 - 1st – Equal 10% of back wages due or \$25/offense
 - 2nd – w/in 2 yrs of 1st Equal to amount of back wages or \$100/offense
 - 3rd - w/in 2 yrs of 2nd Equal to twice amount of back wages or \$200/offense and
 - **SUSPENSION FROM PUBLIC WORK FOR 3 YEARS** (104-25, HRS)

Five Quick Things

1. Overall
2. Apprentice Ratio
3. Wages – Overtime, Sat/Sun, State Holidays or > 8 hours a day
4. Timely
5. Signature & Itemized Fringe Benefits

BONUS: Protect Employees & Reduce Redaction
Keep Confidential info separate.

RESOURCES

- Please call the Wage Standards Division
At 586-8777
- Go on line at labor.hawaii.gov/wsd
- Other resources: Blog: Inside Hawaii
Wage Standards and the DLIR
<http://hawaiiwagestandards.blogspot.com/>
- Facebook: [Hawaii Teens at Work](#)