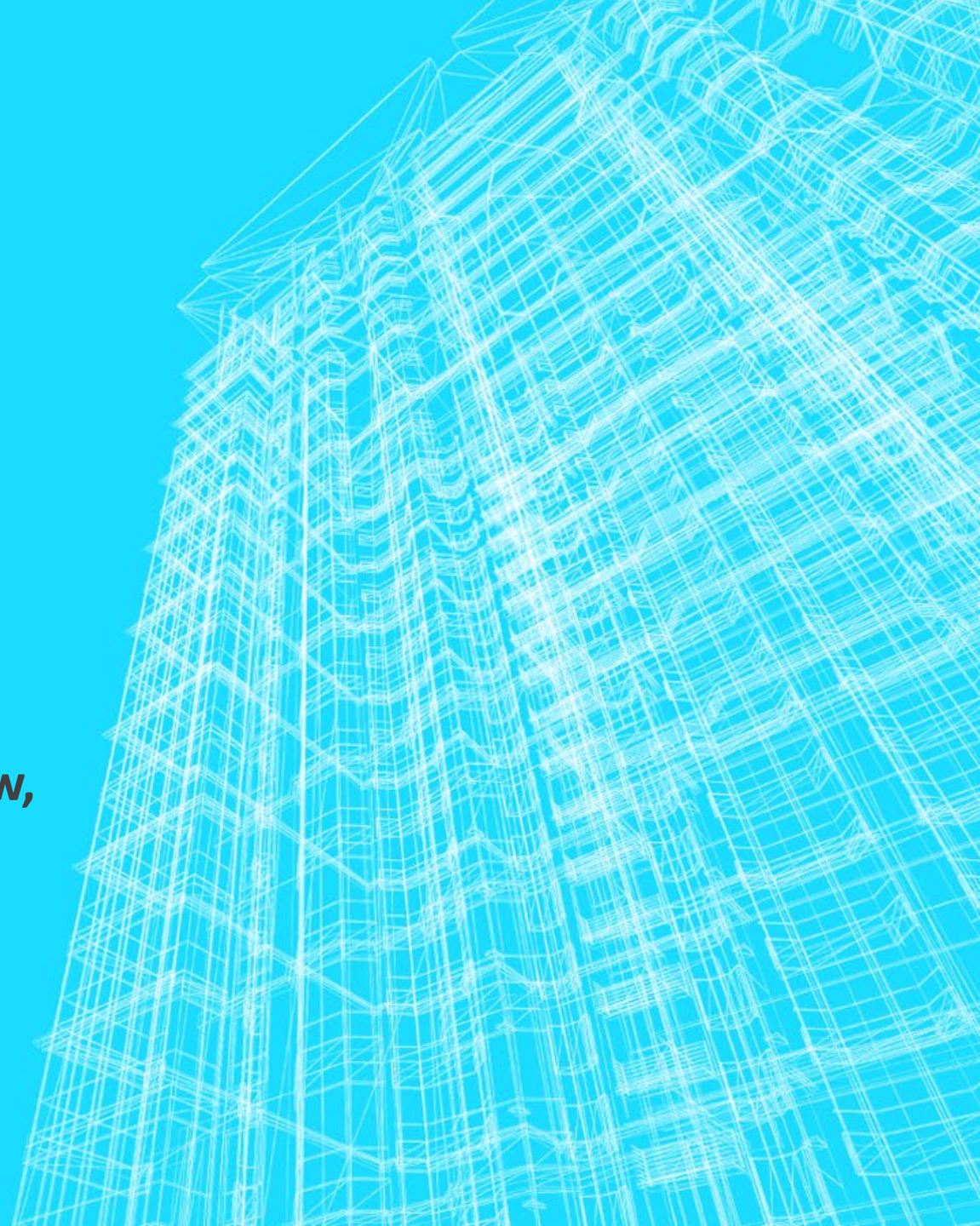


PREVAILING WAGES ON PUBLIC WORKS

**Wages and Hours of Employees on Public Works Law,
Chapter 104, Hawaii Revised Statutes**

**DEPT. OF LABOR AND INDUSTRIAL RELATIONS
WAGE STANDARDS DIVISION**



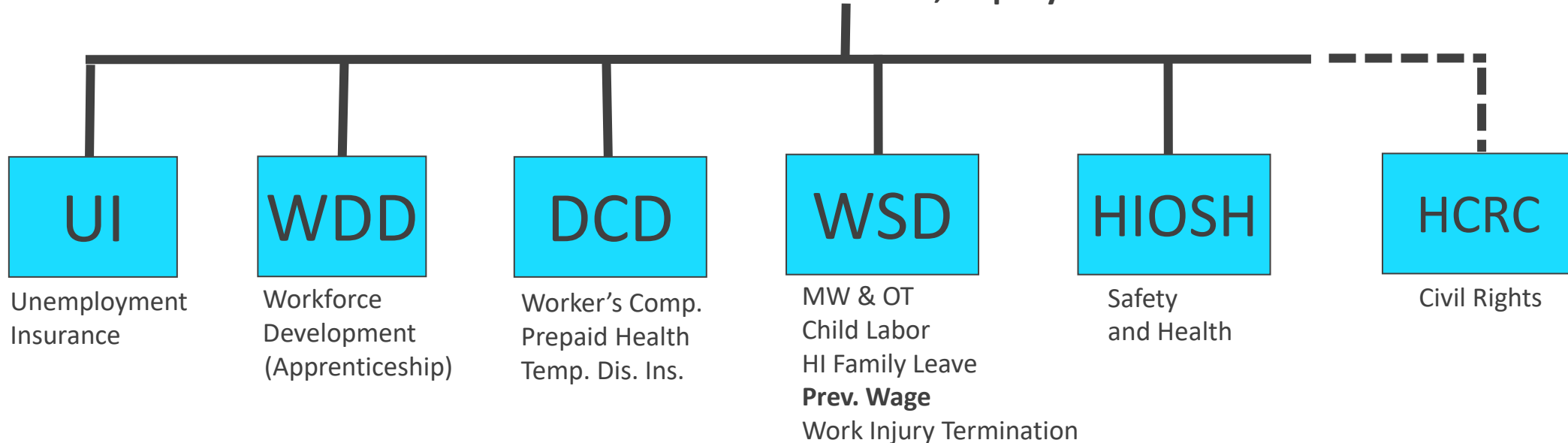
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS



Jade T. Butay, Director



William G. Kunstman, Deputy Director





PRESENTATION HIGHLIGHTS

- Understand the who, what, when, where, why, and how of Hawaii's Prevailing wage law
- Know the prevailing wage rates for laborers and mechanics
- Fringe Benefits and Fringe Benefit Credit
- Understand Certified Payroll Requirements
- Identify Common Challenges in Compliance
- Penalties for violating the law



WHY CHAPTER 104, HRS EXISTS?

- Level Playing field for Everyone
- Laborers & Mechanics Receive equal pay for the same type of work being performed

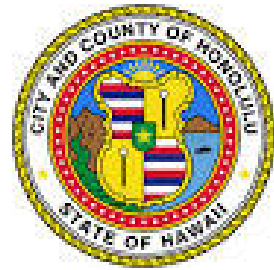
“This [law], like the Federal Davis-Bacon Act, has as its guiding principle that bids for construction of public works should be based on the relative skill and efficiency of the contractors concerned and not on a difference in wages paid.

To state the principle another way, government money, coming from the taxes of all of us, should not be used to subsidize contractors who are depressing the wages of some of us.”

(Standing Committee Report No. 318, 1955 Regular Session)

WHAT DOES CH. 104 APPLY TO?

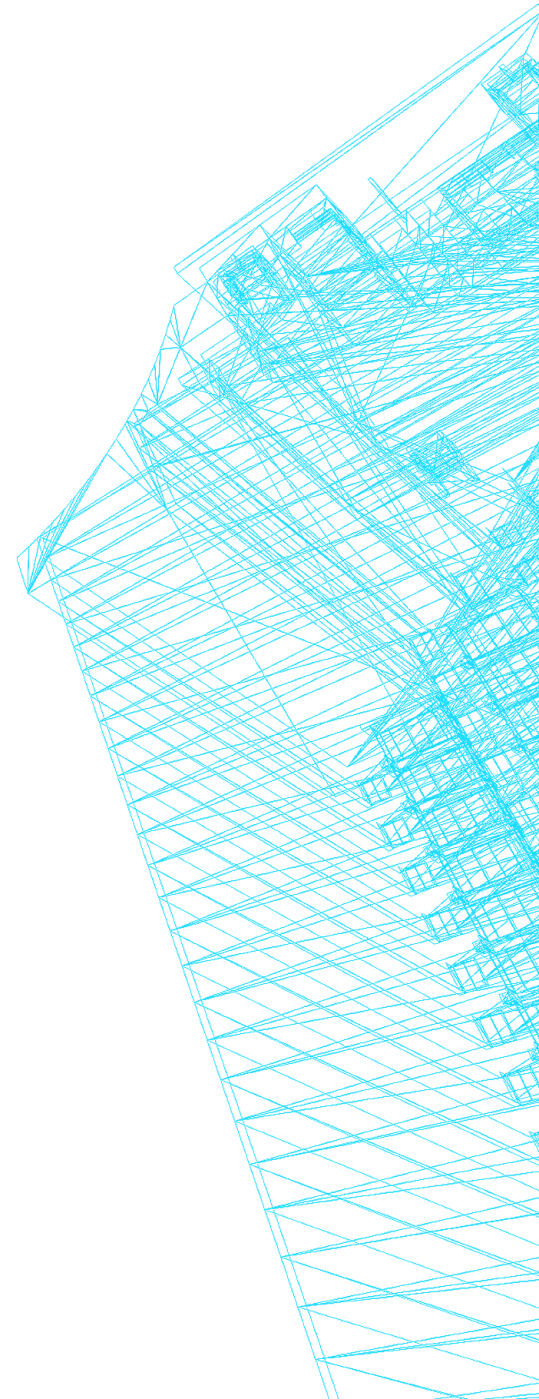
104 Applies to Public
Construction Projects



>\$2,000

OTHER COVERED PROJECTS

- Construction projects funded by Special Purpose Revenue Bonds (SPRB). §104-2(h), HRS
- Construction projects for buildings where more than 50% is leased to a state or county agency. §104-2.5, HRS
- The definition of “Public Work” includes private projects “where the funds or resources required or used to undertake the project are to any extent derived, either directly or indirectly, from public revenues of the State or any county, or from the sale of securities or bonds whose interest or dividends are exempt from state or federal taxes.” §104-1, HRS





WHAT OTHER ACTIVITIES ARE COVERED?

- Work performed by a laborer or mechanic at the site is included if the activity is an integral part of or is in conjunction with a construction contract
- If there is a substantial amount of construction activity involved in a supply, service or other non-construction contract, it is covered.

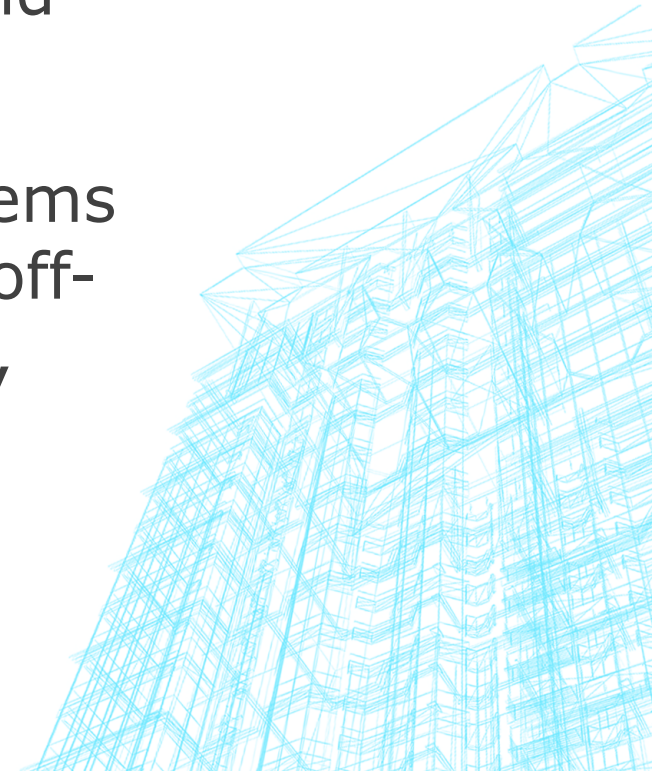
WHAT TYPE OF PROJECT OR ACTIVITY IS COVERED?

- ❖ New Construction
- ❖ Reconstruction
- ❖ Development
- ❖ Improvement
- ❖ Alteration
- ❖ Repair
- ❖ Renovation
- ❖ Painting
- ❖ Decorating
- ❖ Dredging
- ❖ Shoring
- ❖ Sewer Inspection and Repair



...OTHER ACTIVITIES INCLUDE

- ❖ Manufacturing or furnishing of materials, articles, supplies, or equipment on the job site
- ❖ Warranty work
- ❖ Demolition or excavation
- ❖ Landscaping
- ❖ Termite treatment; and
- ❖ Installation at the construction site of items or articles fabricated off-site, such as shelving, drapery, and communications equipment



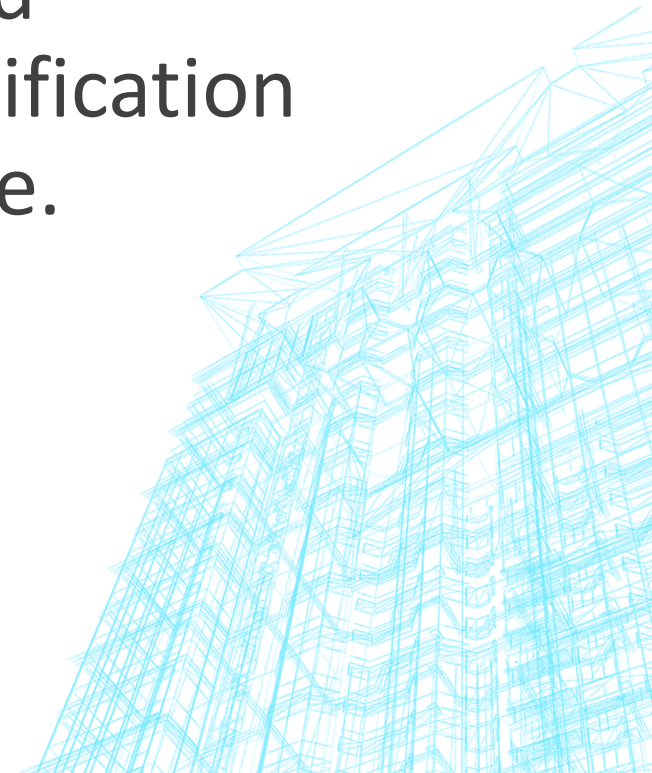
WHO IS COVERED BY CH. 104?

- The law applies to work performed at the public work site by any **laborer or mechanic**, including owner-operators.
- The law also applies when **transporting** materials, supplies or equipment
 - **to or from** the **public work site**;
 - **between** a public work site and another public work site; or
 - between a public work site and a **dedicated site**,when performed by a laborer or mechanic employed at the job site. (See HAR 12-22-1.1)



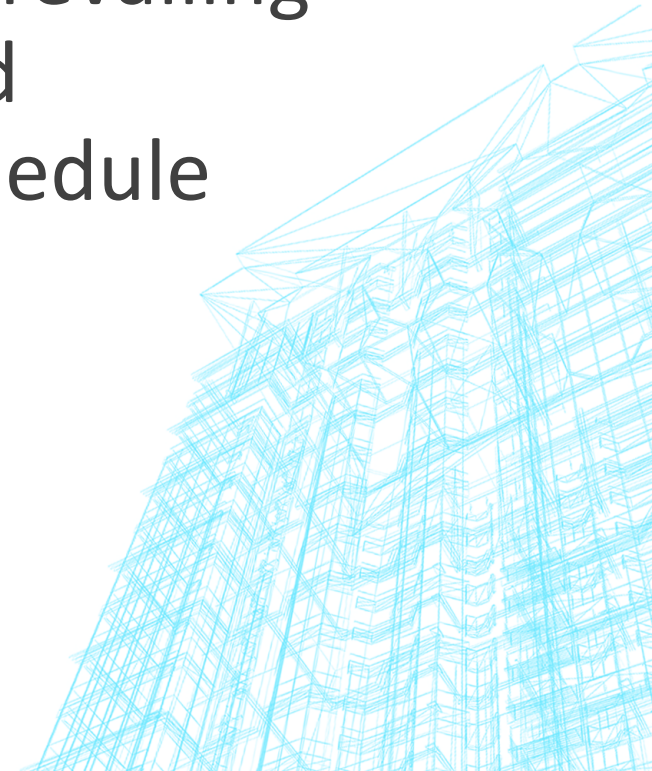
HOW IS THE APPROPRIATE JOB CLASSIFICATION DETERMINED?

A contractor must identify the appropriate classification from the applicable wage rate schedule for all work to be performed by laborers and mechanics on the project. The proper classification must conform to the prevailing area practice.



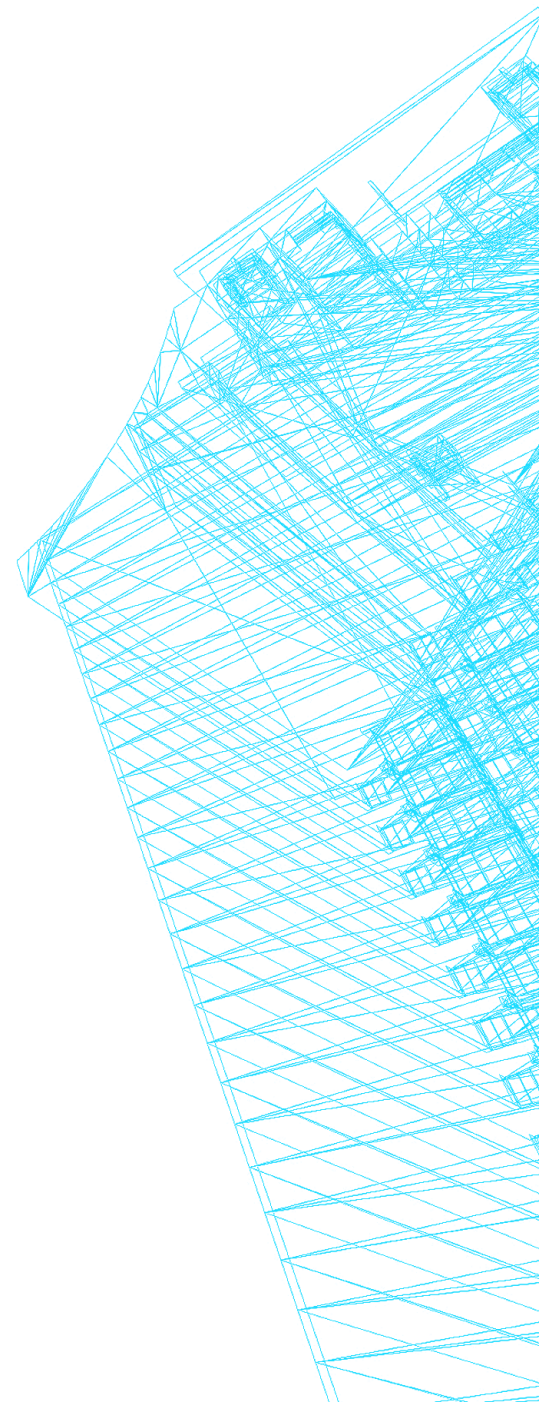
WHAT IS PREVAILING AREA PRACTICE?

Prevailing area practice means the labor classifications of the work performed by the laborers or mechanics of the group used by the contractors whose wage rates were determined to be prevailing in the locality and are incorporated into and represented in the applicable wage rate schedule issued by the department.



CLASSIFICATION EXAMPLES

- ❖ Equipment Operator (Group 6)
- ❖ Laborer I
- ❖ Carpenter Apprentice Step 3, Indentured on 9/1/12
- ❖ Glazier



WAGE RATE SCHEDULE BULLETIN NO. 502

[illegible]

WAGE RATE SCHEDULE UPDATES

- Current is WRS 502 Issued September 19, 2022
- Updated twice a year – on or about Feb. 15 and Sept 15
- Available on the Internet search for Hawaii 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



APPRENTICES ON CERTIFIED PAYROLLS

- ❖ A copy of an apprentice certification or status of agreement should be attached to the certified payroll submitted to the contracting agency.
- ❖ Indenture date and current step or level of the apprentice should be provided for every apprentice listed on the certified payroll.
- ❖ The Apprentice to Journeyman Ratio shall be met at all times.
- ❖ To verify if an apprentice is registered, call: 586-8877 (Workforce Development Division)



WHAT WAGES ARE REQUIRED BY CHAPTER 104?

A contractor must pay the minimum prevailing wages for each class of laborers and mechanics on State or county public works construction projects, as determined by the Director of Labor and published in the wage rate schedule.



PREVAILING WAGES

$$\begin{array}{r} \text{Basic Hourly Rate} \\ + \text{Fringe Benefits} \\ \hline = \text{Prevailing Wage} \end{array}$$

The employer can pay any combination of the basic hourly rate and fringe benefits in order to meet the prevailing wage requirement in the applicable Wage Rate Schedule.



EXAMPLE: REFER TO WRS #502

Carpenter's rate on 9/19/22:

- Basic hourly = \$52.00
- Fringe benefits = \$26.34
- Prevailing wage = \$78.34

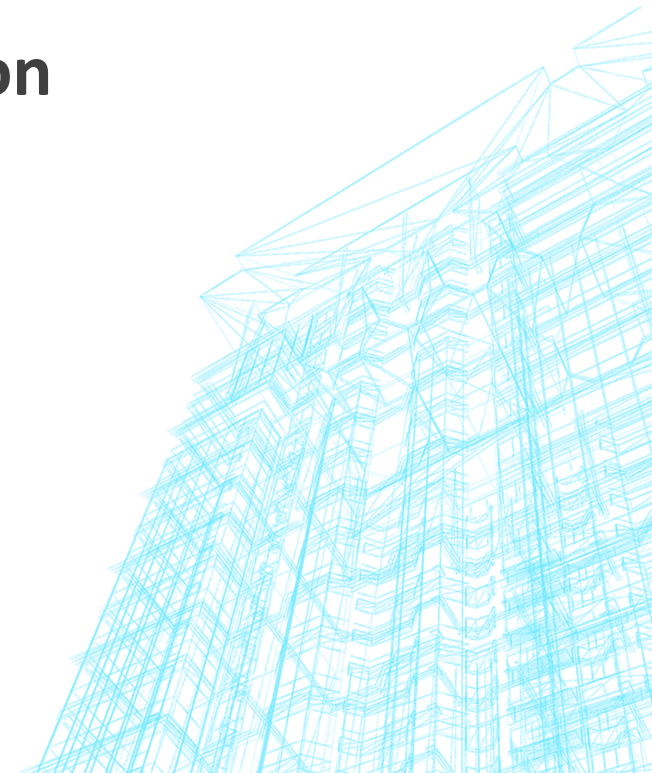
Employer can either:

- ❖ pay the entire \$78.34 directly to employees; or
- ❖ pay any combination of the basic hourly rate & fringe benefits which equals \$78.34.
e.g., \$67.34 as the basic hourly rate, and
\$6.00 per hour for 401K; \$5.00 for medical.

WHEN MUST OVERTIME BE PAID FOR CH. 104?

- Saturday;
- Sunday;
- a legal State holiday; or
- more than 8 hours on any other day whether worked on one or more projects.

Overtime is computed at least 1.5 times the basic hourly rate, plus the fringe benefit rate at straight time. Note some classifications Sundays are 2 times; Labor Day 3 times. (See Remarks #13, Wage Rate Schedule)



CALCULATING OVERTIME

CARPENTER WRS 502	Straight Time		Overtime
Basic Hourly Rate	\$52.00	x 1.5	\$78.00
Fringe Benefit	\$26.34	=	\$26.34
Prevailing Rate	\$78.34		\$104.34



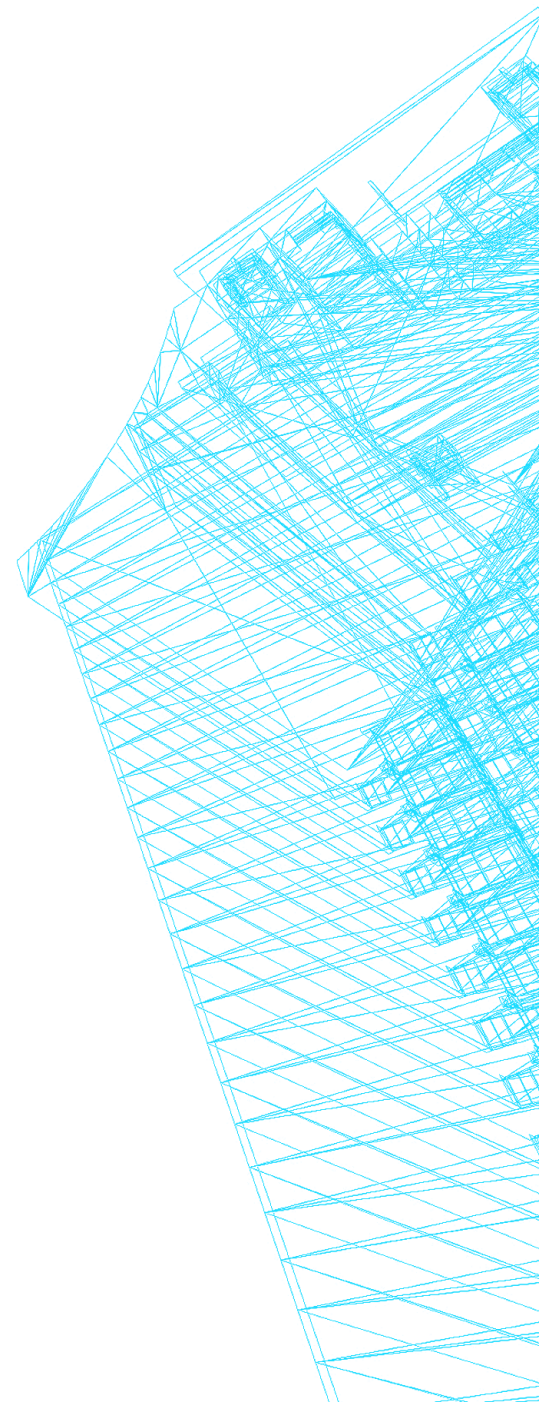
WHAT IS A FRINGE BENEFIT?

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, insurance and pension.

ALLOWABLE FRINGE BENEFITS

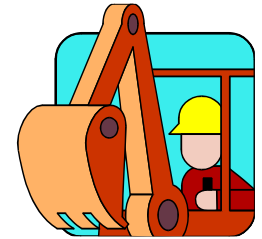
Examples of allowable fringe benefits:

1. Health and welfare
2. Life insurance, disability insurance
3. Vacation and holiday pay
4. Pensions
5. Apprenticeship or similarly approved programs



DETERMINING A FRINGE BENEFIT HOURLY CREDIT BASED ON A MONTHLY RATE

The allowable hourly fringe benefit credit is determined by **dividing the monthly** contribution **rate by 173** hours.
(See Hawaii Administrative Rule 12-22-4)



e.g., Monthly Health Premium: \$865.00

Hourly credit: $\$865.00 \div 173 \text{ hrs} = \$5.00/\text{hr}$

So, if the prevailing wage is \$55.00 per hr, the employer can take a \$5.00 per hr fringe credit, and pay \$50.00 per hour as the basic hourly rate.

Note: Since the hourly fringe credit is based on straight-time hours, credit can be used for straight-time hours only.

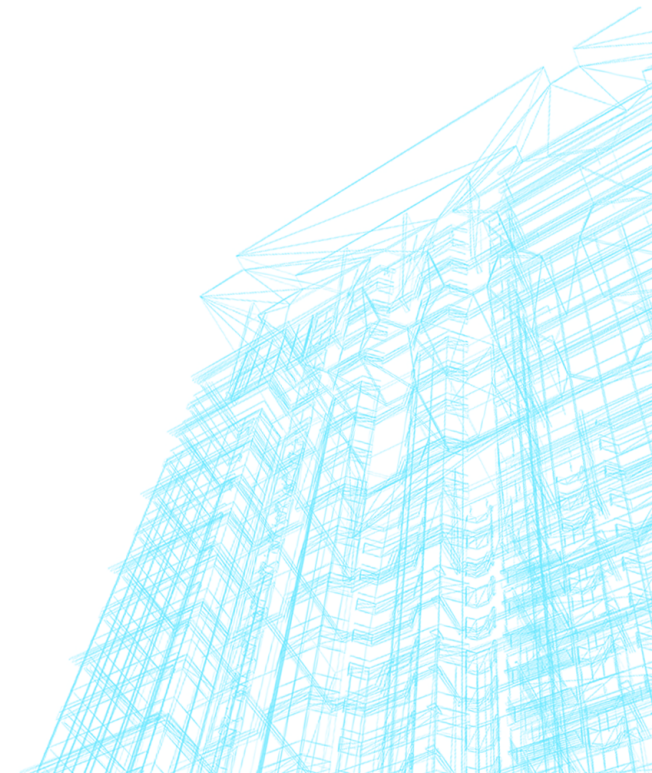
WEEKLY PAY REQUIREMENT

- All employees must be paid weekly and within **5 working days** after the end of the pay period.



WHAT IS A CERTIFIED PAYROLL?

- A copy of the weekly payroll which the contractor has signed to affirm that:
 - the payroll is correct and complete
 - the job classifications conform with the work performed by the laborer or mechanic
 - wages paid are not less than the applicable rates contained in the wage rate schedule.
- Certified payrolls must be submitted weekly to the governmental contracting agency. The general contractor is responsible for submitting the certified payrolls of all subcontractors.



REQUIRED INFORMATION ON CERTIFIED PAYROLL

- ❖ Employee's full name and home address
- ❖ Employee's Social Security Number (last four digits only)
- ❖ Job Classification(s) as shown in the wage rate schedule
- ❖ Rate of pay including applicable fringe benefits (itemized breakdown)
- ❖ Copy of the apprentice's registration with the Department
- ❖ Daily and weekly number of hours worked
- ❖ Straight time hours
- ❖ Overtime hours
- ❖ Total earnings
- ❖ Amount and purpose of deductions
- ❖ Net pay
- ❖ Payment date





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.pwd.hawaii.gov look for **Construction Administration Forms -Construction Ongoing**
 - [STATEMENT OF COMPLIANCE & DAGS-ECP FOR PAYROLL AFFIDAVITS](#)

STATEMENT OF COMPLIANCE

(Rev. 09/09)

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

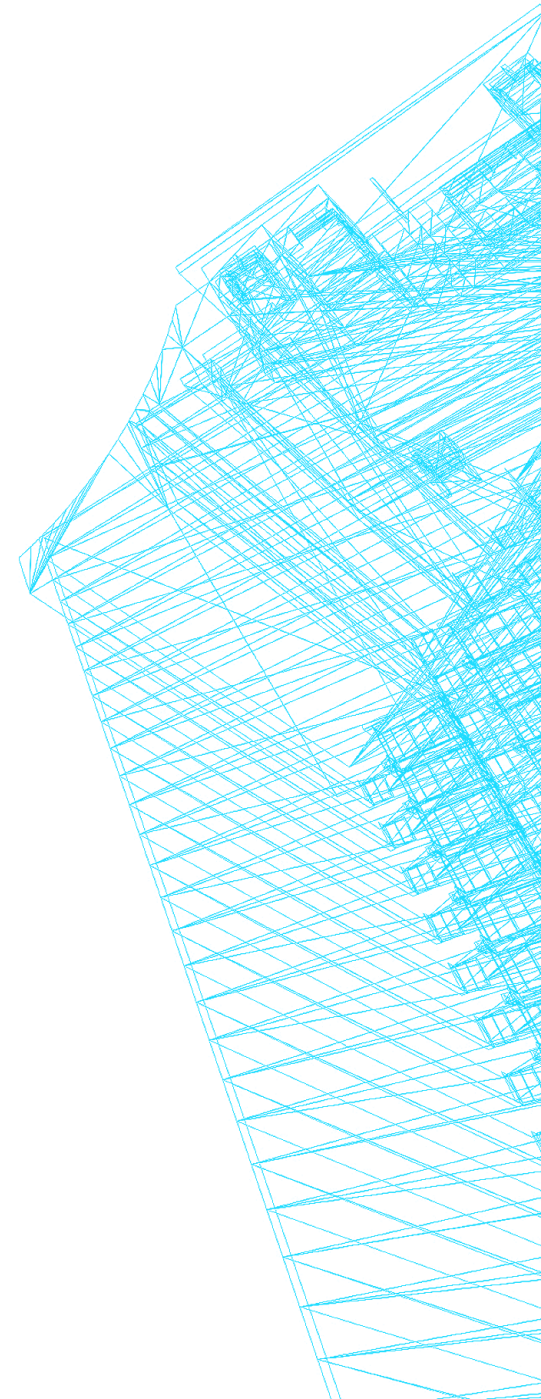
<u>Trade/Craft Classification</u>	<u>Explanation</u>

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

<input type="text"/>	<input type="text"/>
Name	Title
<input type="text"/>	

Signature and Date - Electronic or Inked

Signature
required at
bottom of
form



EXAMPLE OF PAYROLL SHEET

A		B		C		D		E		F		G		H		I		J		K		L		M		N		O		P		Q		R		S		T		U		V		W		X		Y	
1		STATE OF HAWAII										CERTIFIED PAYROLL REPORT										DAGS.ECP v1.0_1205																											
2		DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES																																															
3		Public Works Division																				REPORT SUBMISSION DATE: 26-Oct-07																											
5		Name is of: Contractor: <input checked="" type="checkbox"/>										Subcontractor: <input type="checkbox"/>										THIS IS AN AMENDED FORM																											
6																						<input checked="" type="checkbox"/> PAYMENTS MADE ON SAME DAY TO ALL EMPLOYEES																											
7		NAME: Hasbens Contractors, Inc.																																															
8		PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION										PROJECT NO.		VENDOR CODE																															
9		3		October 20, 2007		CHERRY COURTHOUSE, Remodel for new technology										99-99-9999		000003-98																															
10		NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE		NO. OF VITHOLDINGS EXEMPTIONS		WORK CLASSIFICATION		OT. REGST.		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		MEDICAR E		OTHER DEDUC.							TOTAL DEDUCTIONS															
14 15 16 17 18 19 20										HOURS WORKED EACH DAY																																							
12		Rocco Bonabena				Carpenter		O									8.00		\$52.43		\$419.400		\$3.00		\$2.00		\$1.00		\$1.00		\$0.00		\$7.00		\$280.00				26-Oct-07										
15						S		8.00							8.00		8.00		8.00		32.00		\$34.95																										
16						T		0.00							8.00		8.00		8.00		40.00																												
18		Kenneth Morton				Electrician- Line/Wire Installer		O		2.00									2		\$55.13		\$110.250		\$3.00		\$2.00		\$1.00		\$1.00		\$7.00		\$280.00														
19						S		8.00							6.00		6.00		6.00		38		\$36.75																										
20						T		0.00							10.00		6.00		6.00		40.00																												
22		Keoni Lee				Ironworker		O		2.00									2		\$45.00		\$90.000		\$3.00		\$2.00		\$1.00		\$1.00		\$7.00		\$280.00														
23						S		8.00							6.00		6.00		6.00		38		\$30.00																										
24						T		0.00							10.00		6.00		6.00		40.00																												

Wkly STMT OF COMPL DAGS.ECP v1 Employee Infrmtn

EMPLOYEE INFORMATION

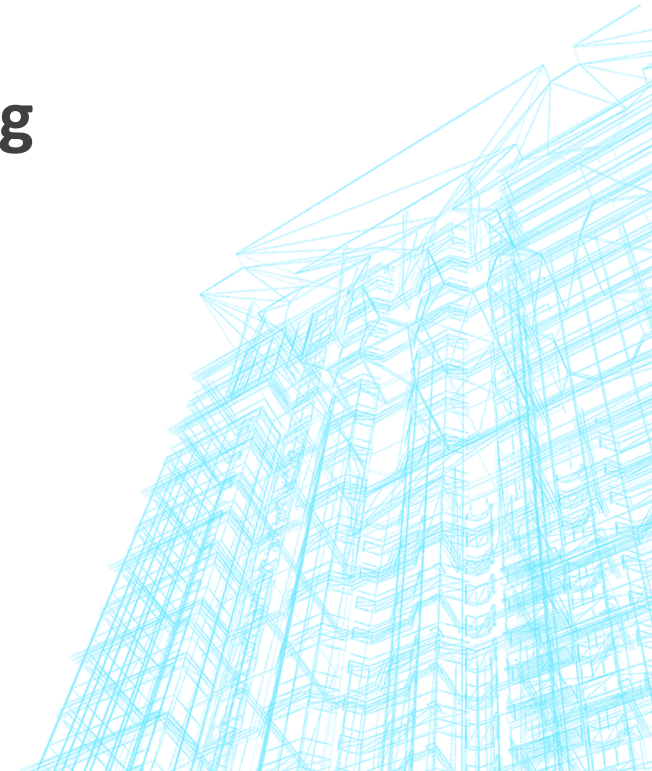
	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	STATE OF HAWAII					<u>CERTIFIED PAYROLL REPORT</u>					DAGS.ECP v1.0_1205			
2	DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES													
3	Public Works Division					REPORT SUBMISSION DATE:					26-Oct-07			
4														
5	Name is Contractor:		<input checked="" type="checkbox"/>				<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>					<u>VENDOR CODE</u>				
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														

Wkly STMT OF COMPL DAGS.ECP v1 Employee Infrmtn

OTHER REQUIREMENTS FOR CERTIFIED PAYROLL



- Certified payrolls should be signed by an authorized official of the company for example, the owner, partner or corporate officer
- Employer must preserve time and payroll records during the project, and for 3 years after its completion.



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/wsd>)
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; provided that if a prevailing wage is defined by a collective bargaining agreement, the overtime compensation shall be at the rates set by the applicable collective bargaining agreement.
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: (808) 586-8777

HAWAII ISLAND (Hilo)
75 Aupuni Street
Room 108
Phone: (808) 974-6464

MAUI (Wailuku)
2264 Aupuni Street
Phone: (808) 243-5322

KAUAI (Lihue)
Contact Honolulu



-- Attach Applicable Wage Rate Schedules Here --

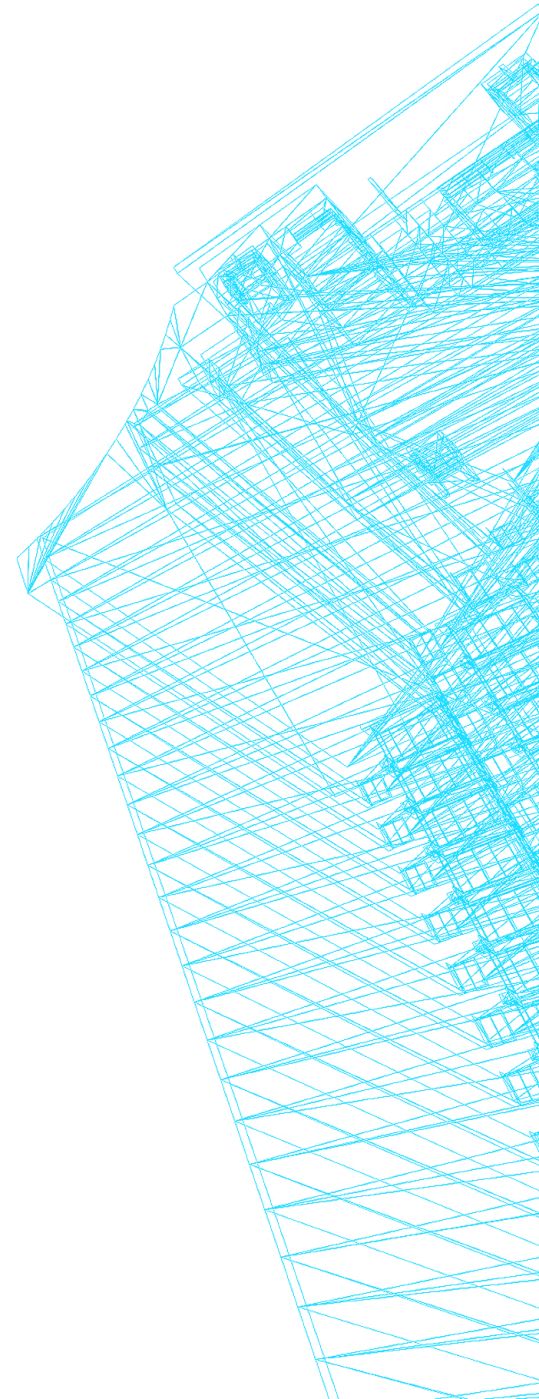
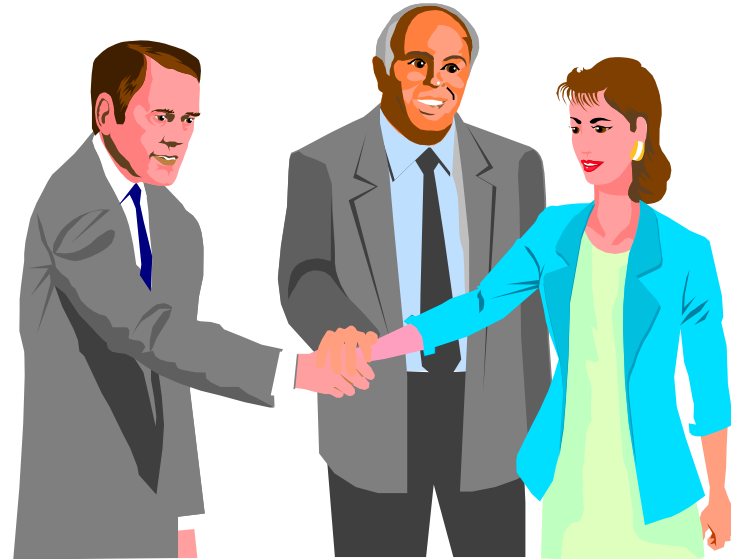


PENALTIES



- \$10,000 and immediate suspension for 3 years for falsification of records, or for delay or interference, and \$1,000 a day for each day of delay (104-22(b) & 104-25(a)(3), HRS)
- Notification of Violation (NOV) (104-24, HRS)
 - 1st – Equal to 25% of back wages found due or \$250/offense, up to \$2,500, whichever is greater
 - 2nd – w/in 2 years of 1st NOV, Equal to amount of back wages found due or \$500/offense, up to \$5,000, whichever is greater
 - 3rd – w/in 3 years of 2nd NOV, Equal to twice the amount of back wages found due or \$1,000/offense, up to \$10,000, whichever is greater and **SUSPENSION FROM ANY NEW WORK FOR 3 YEARS** (104-25, HRS)


ENFORCEMENT RESPONSIBILITIES


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




RESOURCES – WEBSITE (LABOR.HAWAII.GOV/WSD)






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 State of Hawaii
Wage Standards Division

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PREVAILING WAGES ON PUBLIC WORKS
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-  [Chap 104 - WRS](#)

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NEWS AND EVENTS

PREVAILING WAGES ON PUBLIC WORKS

Hawaii law requires all State and county construction projects greater than \$2,000, to pay prevailing wages to laborers and mechanics and file certified payrolls with the contracting agencies.

- For a summary of the law, see [eH104-3](#)
- To view a list of suspended contractors, see [Chapter 104 Suspension List](#)
- For the most current prevailing wages, go to [Wage Rate Schedule](#)
- To download a copy of the Chapter 104 poster, see [Chapter 104 Poster](#)
- To view an online presentation about the law, see [Chapter 104 Powerpoint](#)
- To review Frequently Asked Questions about Chapter 104, go to [FAQ](#)
- To view Situational Questions & Answers Relating to Chapter 104, go to [104 Q&A](#)
- Click on the appropriate links to find guidelines about: [surveyors](#), [signal men](#), [fringe benefit reporting](#), [ARRA](#), [ungulate fence workers](#)
- [Notice Re: WSD-2013-1](#) August 8, 2018 Reinstatement of Memorandum No. WSD-2013-1 re: Applicability of Chapter 104, HRS, to Truck Drivers on Asphalt Paving Public Construction Projects When the Spreader Box or Paving Machine Method in Construction is Used
- [Memorandum April 30, 2014](#) re: Memorandum No. ED-1, Listing of Owners/Partners on Certified Payrolls Under Chapter 104, HRS
- [WSD 2014-01a](#) November 20, 2014 Amending WSD 2014-01 re: Sewer Line Pipe Cleaning and Inspection on Public Works Construction Projects
- [WSD 2014-01](#) January 31, 2014 Sewer Line Pipe Cleaning and Inspection on Public Works Construction Projects (Amended on 11/20/2014. See WSD 2014-01a)
- [WSD 2014-02 November 20, 2014](#) Notice of clarification of WSD 2014-02 (5/16/14) re: Floor Laying on Public Works Construction Projects
- [WSD 2014-02](#) May 16, 2014 Floor Layers on Public Works Construction Projects (Replaced on 11/20/2014)
- [WSD 2017-01](#) July 10, 2017 Certified Payroll Requirements
- To obtain the Department of Accounting and General Services (DAGS), Public Works Division, optional "Statement of Compliance & DAGS-ECP for Payroll Affidavits" certified payroll form, [click here](#)
- [WSD 2019-01](#) September 17, 2019 Clarification of the *Light/Final Clean-Up (Janitorial) Laborer* classification in the Wage Rate Schedule

REVIEW MEMOS & GUIDELINES, ACCESS THE WAGE RATE SCHEDULE, VIEW THE 104 SUSPENSION LIST, CHAPTER 104 FAQ

RESOURCES

- Call the Wage Standards Division at 586-8777 ext.0
- Go to labor.hawaii.gov/wsd
- Email Wage Standards Division at dlir.wages@hawaii.gov

