Wage Standards Division
Department of Labor and
Industrial Relations

Frequently Asked Questions About

Chapter 104

Hawaii Revised Statutes

Wages and Hours of Employees on Public Works Law

A Guide for

- **Contractors**
- **Government Contracting Agencies**
- **Workers**

Publication #H104-2 (2/2026)

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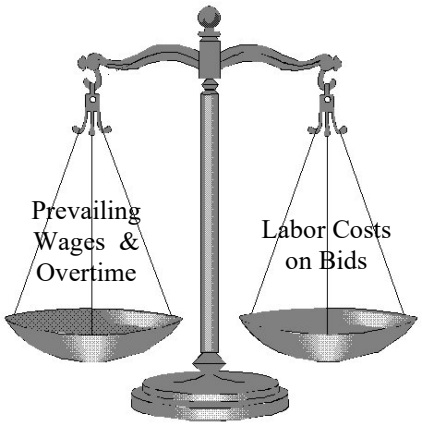
Auxiliary aids and services are available upon request from DLIR's Wage Standards Division, Intake and Certification Branch, at (808) 586-8777, (808) 586-8857 (TTY), and 1-888-569-6859 (TTY neighbor islands).

Publication #H104-2 (2/2026)



INTRODUCTION

In order to create a fair and equitable public bidding process for all contractors, the 1955 Legislature passed a law patterned after the federal Davis-Bacon Act. The Hawaii law, **Wages and Hours of Employees on Public Works**, provided for determination of prevailing wage rates and required contractors to pay prevailing wages to laborers and mechanics.

As declared in the Senate Labor Committee Report:

> *"This bill, 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)*

Chapter 104, Hawaii Revised Statutes, (originally Chapter 9A, Revised Laws of Hawaii) has been amended several times since 1955, and continues to protect the standards of workers on State and county public works construction projects.

This guide is a compilation of answers to frequently asked questions regarding Chapter 104, Hawaii Revised Statutes, to assist contractors, contracting agencies, workers, and other parties involved in a public works construction project in complying with the law. This information is provided to contractors so that the appropriate labor construction costs can be considered prior to the submission of bids.

DETERMINATION OF COVERAGE UNDER CHAPTER 104, HRS

What type of project or activity?

If it is

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

- **Supply, Service or "Other Activity" Such As:**
  - Manufacturing or Furnishing of Materials, Articles, Supplies, or Equipment on the Job Site
  - Warranty Work
  - Demolition or Excavation
  - Landscaping
  - Termite Treatment
  - Installation at the Construction Site of Items or Articles Fabricated Off-site (Shelving, Drapery, Communications Equipment)

Is the activity an integral part of or in conjunction with a construction contract or project?

Yes → **Then it is CONSTRUCTION as defined in Section 12-22-1, HAR**

No → **Is there substantial construction activity involved?**

Factors to Consider:

1. Nature of the prime contract work.
2. Type of work performed by the employees installing the equipment on the project.
3. The extent to which structural modifications to buildings are needed to accommodate the equipment.
4. Cost of the installation work—either in terms of absolute amount or in relation to the equipment and the total project cost.

No → **Not Covered Under Chapter 104**

In Addition

Is it a PUBLIC WORK as defined in Section 12-22-1, HAR?

Yes → **Is the total project cost over $2,000?**

Yes → **Covered Under Chapter 104**

No → **Not Covered Under Chapter 104**

No → **Not Covered Under Chapter 104**

DLIR Wage Standards Division, Rev. 7/97

Under §12-22-1, Hawaii Administrative Rules (HAR):

"Construction of public work" includes without limitation new construction, reconstruction, development, improvement, alteration, repair, renovation, painting, decorating, dredging, shoring, simultaneous sewer inspection and repair, and any other activity performed by a laborer or mechanic employed at the site of a public work or at any property used by the contractor, dedicated for the performance of the contract, such as batch plants, borrow pits, fabrication plants, mobile factories, job headquarters, and tool yards. As used in this definition, "other activity performed by a laborer or mechanic employed at the site" includes the following if the activity is an integral part of or is 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:

1) Manufacturing or furnishing of materials, articles, supplies, or equipment on the job site;
2) Warranty work;
3) Demolition or excavation;
4) Landscaping;
5) Termite treatment; and
6) Installation at the construction site of items or articles fabricated off-site, such as shelving, drapery, and communications equipment.

"Public work" shall have the same meaning as in section 104-1, HRS, and includes without limitation:

1) Any building, structure, road, or real property, the construction of which is undertaken:

   (A) By authority of; and
   (B) Through the use of funds, grants, loans, special purpose revenue bonds, land, or other resources of the State or any county, board, bureau, authority, commission, or other agency or instrumentality thereof, to serve the interest of the public, regardless of whether title thereof is held by a state or county agency. However, subsequent construction to fixtures or appurtenances attached to the assigned space of an individual occupant, lessee, or tenant of the building or structure, contracted by other than a state or county agency or instrumentality thereof, shall not be subject to chapter 104, HRS; or

2) A construction contract between private persons in accordance with section 104-2.5, HRS.

FREQUENTLY ASKED QUESTIONS

Updated September 2018

COVERAGE

1. What is Chapter 104, the public works law?
2. What does Chapter 104 cover?
3. What is the difference between the State and the federal public works laws?
4. Does Chapter 104 apply if federal funds are used?
5. What is the difference between construction and supply or maintenance contracts in regard to Chapter 104?

CLASSIFICATION

6. How is the appropriate job classification determined?
7. What is prevailing area practice?
8. What can be done when there seems to be no appropriate job classification in the wage rate schedule for the work performed on the project?
9. How should job classifications be shown on certified payrolls?
10. Does the law allow “summer hires” or “helpers”?
11. When can a contractor use apprenticeship wage rates?

PREVAILING WAGES

12. What wages are required by Chapter 104?
13. What is a “prevailing wage”?
14. What is the “applicable” prevailing wage?
15. If there is an increase in the prevailing wage, is the contractor required to increase the wages of laborers and mechanics engaged in the performance of the contract on the job site?
16. What is a fringe benefit?
17. Does a contractor need a breakdown of the fringe benefit rate in the wage rate schedule?

18. How can a contractor meet the prevailing wage requirement?

19. How can a contractor take credit for allowable fringe benefits?

20. If warranty work is covered under Chapter 104, what is the applicable prevailing wage?

PAYDAYS

21. How often do laborers and mechanics have to be paid?

WAGE RATE SCHEDULE

22. What is a wage rate schedule?

23. Does a contractor have to provide a wage rate schedule to each laborer and mechanic?

OVERTIME

24. When must overtime be paid under Chapter 104?

25. How is overtime computed?

26. On which holidays must overtime be paid?

CERTIFIED PAYROLLS AND RECORDKEEPING

27. What is a certified payroll?

28. What information should be on a certified payroll?

29. How long should certified and original payroll records be kept?

ENFORCEMENT

30. Who enforces Chapter 104?

31. What can a governmental contracting agency do if a contractor violates Chapter 104?

32. What are the penalties if a contractor violates Chapter 104?

COVERAGE

1. What is Chapter 104, the public works law?

Chapter 104, HRS, is the wage and hour law on State and county public works construction projects. Major requirements of the law include the payment of prevailing wages and overtime to laborers and mechanics working on the project; submission of weekly certified payrolls; record keeping; and posting and notification to employees of the prevailing wage rates.

2. What does Chapter 104 cover?

Every public works construction project over $2,000, involving a State or county governmental contracting agency, is covered, whether it is in the form of a contract awarded through a formal bid process, purchase order, voucher, or lease arrangement. Warranty work performed by a contractor/ subcontractor is covered.

The law applies to work performed at the public work job site by any laborer or mechanic, including owner-operators.

It also applies to a laborer or mechanic who is employed at a public work site and transports materials, supplies or equipment:

(a) to or from a public work site; or
(b) between a public work site and another public work site or a dedicated site;

See pages 2 and 3 for more information on what is covered under Chapter 104.

3. What is the difference between the State and the federal public works laws?

- State law (***Chapter 104***--sometimes called "Little Davis-Bacon") applies to work done on State and county construction projects.
- Federal law (***Davis-Bacon Act***) applies to work done on federal construction projects.

4. Does Chapter 104 apply if federal funds are used?

Yes, if the State or a county is the contracting agency.

5. What is the difference between construction and supply or maintenance contracts in regard to Chapter 104?

Public works **construction** projects are subject to Chapter 104.

Supply and service contracts are covered by Chapter 103, HRS, but may also be subject to Chapter 104 if the activity is an integral part of a construction contract or project, or if substantial construction work is involved. (Refer to the Determination of Coverage chart on page 2.)

CLASSIFICATION

6. 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. Proper classification must conform to prevailing area practice.

7. What is prevailing area practice?

Prevailing area practice refers to the classification of work used by contractors whose wage rates were found to be prevailing in the area and published in the wage rate schedule.

If the Department of Labor and Industrial Relations (DLIR) determines that the prevailing wage for a particular trade is derived from a collective bargaining agreement, the DLIR is responsible to ensure that the work performed by a laborer or mechanic is classified according to the job content upon which the wage rates are based. Accordingly, all contractors performing work in the particular trade will be required to use the appropriate job classification and pay the applicable prevailing wage.

For prevailing area practice information, contact the Wage Standards Division of the DLIR.

8. What can be done when there seems to be no appropriate job classification in the wage rate schedule for the work performed on the project?

The contractor is required to use the closest existing classification in the applicable wage rate schedule. The contracting agency should be consulted when there seems to be no appropriate class. If there is disagreement on the appropriate class, a written request may be submitted to the DLIR by the governmental contracting agency or any interested party. The written request should include:

- project name and number
- contracting agency
- specific duties or the work performed
- type(s) of materials specified
- tools used for performing the work
- a recommendation from the contracting agency or the contractor about what the proper classification should be.

9. How should job classifications be shown on certified payrolls?

Certified payrolls must show the specific job classification as listed in the wage rate schedule, which conform to the work performed by the laborer or mechanic on the job site.

Examples: Equipment Operator (Group No.), Laborer I or II, and Roofer Apprentice (level, percentage or step).

10. Does the law allow "summer hires" or "helpers"?

No. The "summer hire" classification is not recognized under Chapter 104. If a contractor hires any temporary summer help, these workers must be classified and paid according to the work performed, using the closest existing job classification in the wage rate schedule. Only the helper classifications listed in the wage rate schedule are allowed.

11. When can a contractor use apprenticeship wage rates?

Apprentice wage rates shown in the wage rate schedule apply only to:

(1) contractors who are a party to a bona fide apprenticeship program which has been registered with the DLIR;

(2) apprentices who are parties to apprenticeship agreements which have been registered with the DLIR or recognized by the Workforce Development Division of the DLIR as a USDOL nationally approved apprenticeship program, and who have been individually registered by name with the DLIR; and

(3) the number of apprentices is within the allowable ratio to journeyworkers for the same craft classification on any public works project.

However, a registered or recognized apprentice receiving the journeyworker wage will not be considered a journeyworker to meet the ratio requirements for another apprentice.

PREVAILING WAGES

12. 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.

13. What is a "prevailing wage"?

The prevailing wage is the basic hourly rate and the cost to an employer of providing a laborer or mechanic with fringe benefits.

Example - Prevailing Wage:

Basic hourly rate:	$28.30
Fringe benefit:	+12.05
Prevailing wage:	$40.35

14. What is the "applicable" prevailing wage?

The applicable prevailing wage is determined by proper classification. A contractor/subcontractor is required to classify every laborer or mechanic on the project in the closest existing classification listed in the applicable wage rate schedule.

15. If there is an increase in the prevailing wage, is the contractor required to increase the wages of laborers and mechanics engaged in the performance of the contract on the job site?

Yes, whenever the Director of Labor determines that the prevailing wage has increased as shown in the wage rate schedule, the contractor must increase the wages accordingly.

16. 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.

17. Does a contractor need a breakdown of the fringe benefit rate in the wage rate schedule?

No, because the contractor may pay any combination of allowable fringe benefits in order to meet the prevailing wage. See question #18.

18. How can a contractor meet the prevailing wage requirement?

A contractor can pay any of the following combinations of the basic hourly rate and fringe benefits, which must not be less than the prevailing wage total reflected in the wage rate schedule:

(a) By paying the basic hourly rate and by making contributions for the fringe benefits in the amount specified in the wage rate schedule;
(b) By paying the basic hourly rate and an additional cash payment in lieu of the fringe benefits directly to the laborer or mechanic; or
(c) By paying an hourly rate, partly in cash and partly in fringe benefits.

19. How can a contractor take credit for allowable fringe benefits?

The contractor may take credit for contributions paid for benefits such as a medical plan or insurance policy. The allowable hourly fringe benefit credit is determined by dividing the monthly contribution rate by 173 hours (average straight-time hours per month). Since the hourly credit for fringe benefits is based on straight time hours, credit may not be applied to overtime hours.

Example of how to compute hourly fringe benefit credit:

The monthly contribution/premium paid to a medical plan is $320.05.

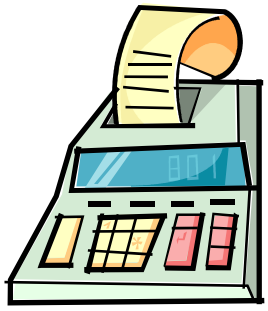
$320.05 ÷ 173 = $1.85 per hour credit

Prevailing wage:	$40.35
Hourly credit for medical fringe benefit:	-1.85
Hourly rate due:	$38.50

20. If warranty work is covered under Chapter 104, what is the applicable prevailing wage?

Prevailing wages in the most current wage rate schedule must be paid.

PAYDAYS



21. How often do laborers and mechanics have to be paid?

They must be paid weekly and within five working days after the end of the pay period.

WAGE RATE SCHEDULE

22. What is a wage rate schedule?

A wage rate schedule is a publication of job classifications and corresponding wage rates determined by the Director of Labor to be prevailing based on surveys of the construction industry and determinations made by the United States Department of Labor. The schedules are issued on or about February 15 and September 15 of each year.

Sample Wage Rate Schedule

WAGE RATE SCHEDULE BULLETIN NO. 489

	Current			2017			2018			2019			
Classification	Prevailing Wage Total	Basic Hourly Rate	Fringe Hourly Rate	Prevailing Wage Total	Basic Hourly Rate	Fringe Hourly Rate	Prevailing Wage Total	Basic Hourly Rate	Fringe Hourly Rate	Prevailing Wage Total	Basic Hourly Rate	Fringe Hourly Rate	Remarks See Pg 7-9
UNDERGROUND LABORER:	**8/29/16**			**9/4/17**			**9/3/18**						
Worker in a raise, shaft, or tunnel.													
Group 1	$54.36	$35.95	$18.41	$56.26	$37.00	$19.26	$58.26	$38.00	$20.26	-	-	-	13
Group 2	$55.86	$37.45	$18.41	$57.76	$38.50	$19.26	$59.76	$39.50	$20.26	-	-	-	13
Group 3	$56.36	$37.95	$18.41	$58.26	$39.00	$19.26	$60.26	$40.00	$20.26	-	-	-	13
Group 4	$57.36	$38.95	$18.41	$59.26	$40.00	$19.26	$61.26	$41.00	$20.26	-	-	-	13
Group 5	$57.61	$39.20	$18.41	$59.51	$40.25	$19.26	$61.51	$41.25	$20.26	-	-	-	13
Group 6	$57.71	$39.30	$18.41	$59.61	$40.35	$19.26	$61.61	$41.35	$20.26	-	-	-	13
Group 7	$57.96	$39.55	$18.41	$59.86	$40.60	$19.26	$61.86	$41.60	$20.26	-	-	-	13
Group 8	$58.41	$40.00	$18.41	$60.31	$41.05	$19.26	$62.31	$42.05	$20.26	-	-	-	13
* **WATER FRONT CONSTRUCTION (DREDGING):**	**9/19/16**												
CLAMSHELL OR DIPPER DREDGES:													
Clamshell or Dipper Operator	$72.60	$42.69	$29.91	-	-	-	-	-	-	-	-	-	11,12,13
Mechanic; Welder; Watch Engineer	$71.94	$42.03	$29.91	-	-	-	-	-	-	-	-	-	12,13
Deckmate; Bargemate	$71.54	$41.63	$29.91	-	-	-	-	-	-	-	-	-	12,13
Fire Person; Oiler; Deckhand; Barge Worker	$69.88	$39.97	$29.91	-	-	-	-	-	-	-	-	-	12,13
HYDRAULIC SUCTION DREDGES:													
Lever Operator	$72.24	$42.33	$29.91	-	-	-	-	-	-	-	-	-	12,13
Mechanic; Welder	$71.94	$42.03	$29.91	-	-	-	-	-	-	-	-	-	12,13
Watch Engineer (steam or electric)	$72.09	$42.18	$29.91	-	-	-	-	-	-	-	-	-	12,13
Dozer Operator	$71.88	$41.97	$29.91	-	-	-	-	-	-	-	-	-	12,13
Deckmate	$71.54	$41.63	$29.91	-	-	-	-	-	-	-	-	-	12,13
Winch Operator (stern winch on dredge)	$71.43	$41.52	$29.91	-	-	-	-	-	-	-	-	-	12,13
Fire Person; Oiler; Deckhand (can operate anchor scow under direction of deckmate); Levee Operator	$69.88	$39.97	$29.91	-	-	-	-	-	-	-	-	-	12,13
DERRICKS:													
Operator: Derrick, Piledriver, Crane	$72.60	$42.69	$29.91	-	-	-	-	-	-	-	-	-	12,13
Deckmate; Saurman Type Dragline (up to & including 5 yds.)	$71.54	$41.63	$29.91	-	-	-	-	-	-	-	-	-	12,13
Saurman Type Dragline (over 5 cu. yds.)	$71.94	$42.03	$29.91	-	-	-	-	-	-	-	-	-	12,13
Fire Person; Oiler; Deckhand	$69.88	$39.97	$29.91	-	-	-	-	-	-	-	-	-	12,13
BOAT OPERATORS:													
Master Boat Operator	$72.24	$42.33	$29.91	-	-	-	-	-	-	-	-	-	12,13
Boat Operator	$72.09	$42.18	$29.91	-	-	-	-	-	-	-	-	-	12,13
Boat Deckhand	$69.88	$39.97	$29.91	-	-	-	-	-	-	-	-	-	12,13
WATER WELL DRILLER:	**9/19/16**												
Water Well Driller	$39.68	$31.00	$8.68	-	-	-	-	-	-	-	-	-	
Water Well Driller Helper	$25.58	$18.00	$7.58	-	-	-	-	-	-	-	-	-	
WELDER:													
Use wages of craft to which welding is incidental, except for Chain-Link Fence Erector. See remark.													10

Comments: Overtime must be paid at one and one-half times the basic hourly rate plus the hourly cost of required fringe benefits.
*** Indicates a wage, fringe benefit, remark, or title change from the previous bulletin.**

23. Does a contractor have to provide a wage rate schedule to each laborer and mechanic?

The contractor is required to give a **complete** copy to each laborer and mechanic employed on the project, except for employees covered by a collective bargaining agreement. Applicable wage rate schedules must also be posted by the contractor at the job site.

OVERTIME

24. When must overtime be paid under Chapter 104?

Overtime must be paid for all hours worked on:

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

25. How is overtime computed?

Overtime must be paid at no less than 1½ times the basic hourly rate, plus fringe benefits.

Act 165, passed in the 2015 Legislative session requires 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."***

EXAMPLE - OVERTIME

Basic hourly rate:	$28.30
	x 1.5
	$42.45
Add fringe benefit:	+12.05
Overtime rate:	$54.50

26. On which holidays must overtime be paid?

Contractors must pay **overtime** for work done on these legal State holidays:*

New Year's Day	January 1
Martin Luther King, Jr. Day	January – Third Monday
Presidents' Day	February – Third Monday
Prince Kuhio Day	March 26
Good Friday	Friday before Easter Sunday
Memorial Day	May – Last Monday
King Kamehameha Day	June 11
Independence Day	July 4
Statehood Day	August – Third Friday
Labor Day	September – First Monday
Veterans' Day	November 11
Thanksgiving Day	November – Fourth Thursday
Christmas Day	December 25

* Holidays that fall on Saturday are observed on the preceding Friday; holidays that fall on Sunday are observed on the following Monday.

In addition, overtime must be paid for:

- General Election Day, not including primary and special election days, in the county where the election is held.
- Any day that the President or Governor proclaims as a holiday.

CERTIFIED PAYROLLS AND RECORD KEEPING

27. 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; and
- 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.

28. What information should be on a certified payroll?

Certified payroll records for each laborer and mechanic working on the job site must contain the following:

- name and home address;
- last four digits of social security number;
- copy of the apprentice's registration with the DLIR;
- correct job classification as shown on the Wage Rate Schedule;
- rate of pay;
- itemized fringe benefit reporting form;
- daily and weekly number of hours worked;
- total straight-time, overtime, and gross earnings for each week;
- amount and purpose of each deduction;
- net wages paid; and
- date of payment.

There is no standard form required for certified payrolls. Any form is acceptable as long as it includes all of the above required information, and is certified. The contractor should contact the contracting agency for any certified payroll requirements that the contracting agency may have.

The Department of Accounting and General Services (DAGS) certified payroll with fringe benefit reporting form is available at http://labor.hawaii.gov/wsd/forms/.

29. How long should certified and original payroll records be kept?

All records must be maintained throughout the project, and for 3 years after completion of the project.

ENFORCEMENT

30. Who enforces Chapter 104?

The governmental contracting agency and the DLIR share joint enforcement responsibilities.

31. What can a governmental contracting agency do if a contractor violates Chapter 104?

The governmental contracting agency may:

- withhold payments to the contractor;
- terminate the contractor's right to continue work. If this action is required, the contractor and the contractor's bonding company are liable to the governmental contracting agency for any excess costs;
- refer the matter to the Wage Standards Division of the DLIR for investigation;
- within 60 days of a determination made by the Director of Labor either:
  - (1) order any contractor to pay back wages found due directly to laborers and mechanics and pay the Director of Labor any penalty assessed;
  - (2) pay directly to laborers and mechanics any wages found due and pay the Director of Labor any penalty assessed; or
  - (3) pay the Director of Labor the total amount of back wages or penalties, or both.

32. What are the penalties if a contractor violates Chapter 104?

- First Violation — Equal to 25% of back wages found due or $250 per offense up to $2,500, whichever is greater.
- Second Violation — Equal to amount of back wages found due or $500 for each offense up to $5,000, whichever is greater.
- Third Violation — Equal to two times the amount of back wages found due or $1,000 for each offense up to $10,000, whichever is greater; and
  Suspension from doing any new work on any public work of a governmental contracting agency for three years.

A violation would be deemed a second violation if it occurs within two years of the first Notification of Violation (NOV), and a third violation if it occurs within three years of the second NOV.

If a contractor interferes with or delays an investigation, the DLIR shall assess a penalty of $10,000 per project. Interference or delay includes failure to provide requested records or information within ten days, failure to allow employees to be interviewed during working hours on the job, and falsification of records required under this chapter. For each day thereafter that the contractor does not cooperate, the department shall assess a penalty of $1,000 per project. In addition, for falsification of records, or for delay or interference with an investigation, the contractor shall be immediately suspended for 3 years.

Suspension for nonpayment of wages or penalties. For a first or second violation, the department shall immediately suspend a contractor who fails to pay wages or penalties until all wages and penalties are paid in full. For a third violation, the department shall penalize and suspend the contractor as described above, except that if the contractor continues to violate the law, then the department shall immediately suspend the contractor for a mandatory three years. The contractor shall remain suspended until all wages and penalties are paid in full.

WAGE RATE SCHEDULE

The wage rate schedule is available on the Internet at:

https://labor.hawaii.gov/rs/wage-rate-schedule/

Got a question?
Please contact these DLIR Offices:

Wage Standards Division	Honolulu	Phone:	(808) 586-8777
		Fax:	(808) 586-8766
		Email:	dlir.wages@hawaii.gov
	Hawaii Island	Phone:	(808) 974-6464
		Fax:	(808) 933-0466
	Kauai	Phone:	Contact Honolulu
		Fax:	" "
	Maui	Phone:	(808) 243-5322
		Fax:	(808) 984-2071
Apprenticeship Program of the Workforce Development Division		Phone:	(808) 586-8877
Research and Statistics		Phone:	(808) 586-8799