



Minnesota Construction Industry Conference Prevailing Wage (PW) Compliance Workshop

Presented by:
Charles Groshens
Michelle Dreier

Your Destination...Our Priority



What is Prevailing Wage? (PW)

- ▶ Federal and State “**minimum wage**” laws.
- ▶ Applicable to contracts funded in whole or part with federal and/or state funds.
 - **Local Ordinances**
- ▶ **Establishes** hours worked, minimum wages, fringe benefits, overtime, other contract requirements
- ▶ Certified **Wages** and **Fringe Benefits** are based on contractors **voluntary–periodic survey** process.
- ▶ Intended to establish wages and fringe benefits **reflective of the surveyed area.**



What is Prevailing Wage? (PW)

- ▶ Prevents local community wage standards from being undercut by outside contractors with inexpensive labor in **a low bid environment**.
- ▶ Encourages competitive bidding by establishing a wage standard that **all** contractors must follow.
- ▶ Tends to attract a workforce that is well trained; resulting in quality workmanship which **promotes on-time and on-budget projects**.
- ▶ **Classification – Wage Rates – Reporting**



Labor Classifications

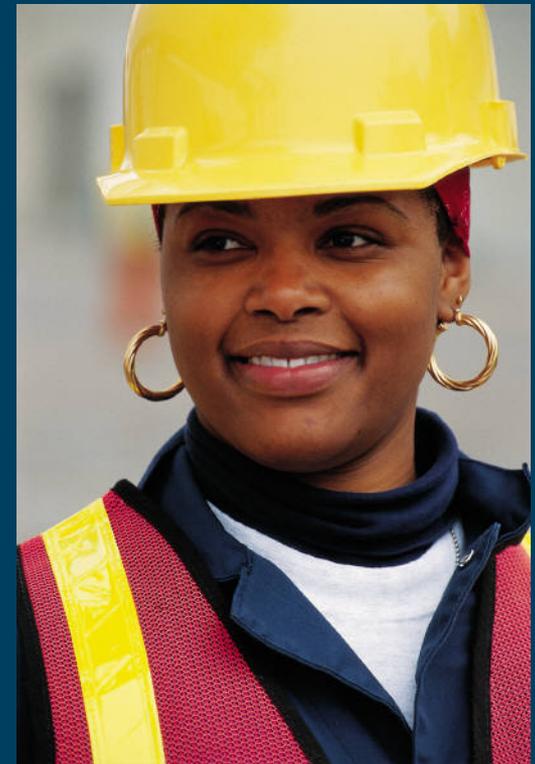


▶ Who is subject to PW?

- A laborer or mechanic (**worker**) that performs “work” under a contract.
- Work is considered duties that are manual or physical in nature as distinguished from mental or managerial duties.

▶ Workers include:

- Laborers (100s)
- Specialty Equipment Operators (200s)
- Equipment Operators (300s / 500s)
- Truck Drivers (600s)
- Skilled Journeyman (700s)
 - Carpenters
 - Electricians
 - Ironworkers
 - Plumbers, etc.



▶ A worker must be classified & compensated based on the actual work performed **regardless** of the worker's skill level.



Prevailing Wage Decisions

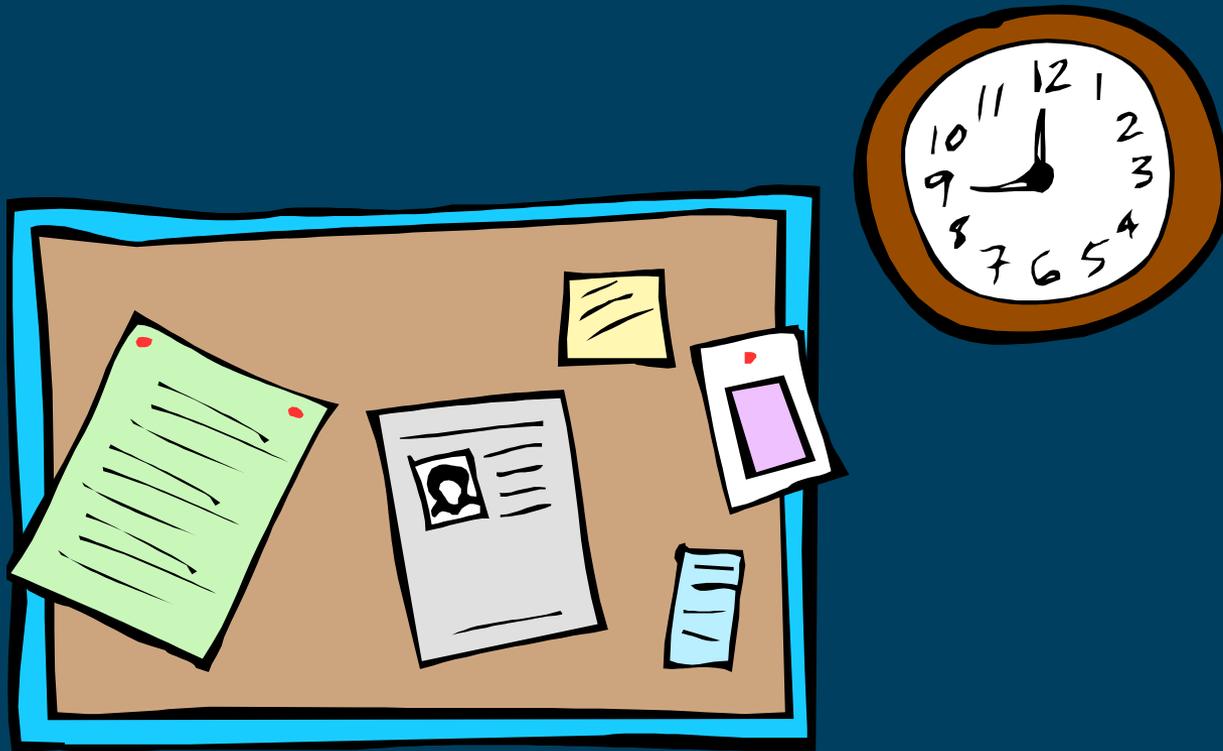


Federal Wage Decisions

- ▶ Issued by USDOL specific to **state and counties**
- ▶ **Highway Decisions**
 - Adopted State Wage Rates – Sept 2010
 - General Decision number were changed
 - Still some discrepancy based on issuing dates
- ▶ **Commercial & Heavy**
 - USDOL Still Survey the 87 counties
 - Certified based on: 50+ rule or Averaged (SUMN)



Poster Boards



Poster Board Requirements

Prime contractor required to display and maintain posters on project site; **Subs** are also required on Commercial projects

- Starting on the first work day until project is **100% completed** by all contractors
- Location must be **easily accessible** to all employees working on project at all times
- Posters must be **accurate and legible**
- Posters may be ordered from Mn/DOT's supplies
651-366-3091



Poster Board Requirements

■ Federal

- Mn/DOT Notice To Workers
 - Mn/DOT Notice of Nondiscrimination in Employment
 - MN Workers Compensation
 - Federal NOTICE Fraud
 - Federal Wage Rate Information
 - Federal OSHA (Safety & Health Protection on the Job)
 - State & Federal Wage Decisions (From Contract)
 - State Truck Rental Rates (From Contract)
-

■ State

- Mn/DOT Notice To Workers
- Mn/DOT Notice of Nondiscrimination in Employment
- MN Workers Compensation
- Federal OSHA (Safety & Health Protection on the Job)
- State Wage Decision (From Contract)
- State Truck Rental Rates (From Contract)



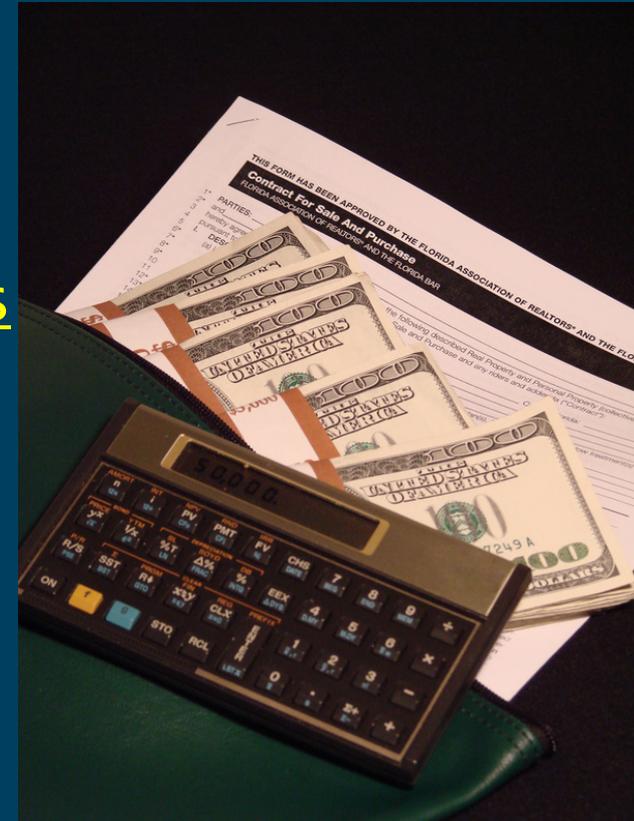
Wages and Overtime



▶ $PW = \text{Basic Wage Rate} + \text{Fringe Benefit Rate}$

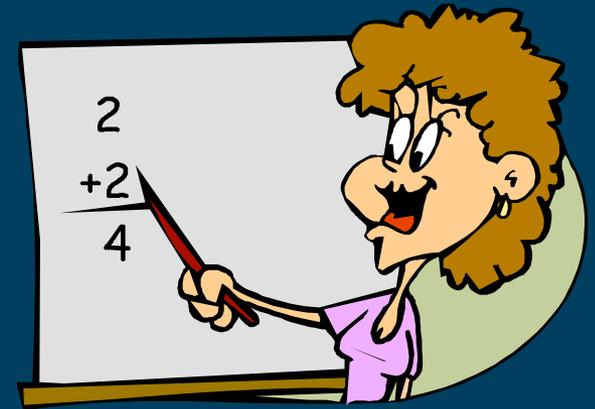
▶ To demonstrate compliance

- a contractor must compensate a worker, **at a minimum**, a combination of cash and fringe benefits that **meets or exceeds the total PW rate** required for a specific labor classification.



- ▶ A contractor **assigns** a worker a “Common Laborer” classification; the wage decision incorporated into a contract requires the following:

◦ Basic Hourly Rate	\$12.00
◦ <u>Fringe Benefits</u>	\$ 2.00
◦ TOTAL Prevailing Wage	\$14.00



- ▶ A contractor may **comply** by paying the following hourly rates:

- \$12.00 as a wage plus \$2.00 in fringe benefit costs,
- \$14.00 as a wage with NO fringe benefits costs,
- \$13.00 as a wage plus \$1.00 in fringe benefits costs,
- \$11.00 as a wage plus \$3.00 in fringe benefits costs.



▶ **State** Overtime, a contractor shall not

- Permit or require a worker
 - to work longer than the prevailing hours of labor,
 - unless the worker is paid for all hours in excess of the **prevailing hours of labor** at a rate of at least **1-1/2 times** the basic hourly rate of pay plus fringe benefits.



▶ Prevailing hours of labor is defined as

- not more than **8 hours per day** or
- more than **40 hours per week**.

▶ **Federal** Overtime is after **40 hours** on the project

▶ **At a minimum**, the contractor must use the **MnDLI's** or **Secretary of Labor** base rate of pay.



Minimum PW OT Calculation Formula

OT CALCULATION FORMULA AND EXAMPLES

$$OT = (PW * .5) + (HW) + (RF) + (F)$$

Hourly Wage Paid	Fringe Benefits Paid	<u>Payment To Employee</u>			Fringe Payment + (F)	<u>Total Payment</u> = OT
		(PW * .5)	+	(HW) + (RF)		
\$ 20.00	\$ 10.00	(\$ 20.00 * .5)	+	(\$ 20.00) + (\$ 0.00) = \$ 30.00	+ \$ 10.00	= \$ 40.00
\$ 18.00	\$ 12.00	(\$ 20.00 * .5)	+	(\$ 18.00) + (\$ 0.00) = \$ 28.00	+ \$ 12.00	= \$ 40.00
\$ 22.00	\$ 8.00	(\$ 20.00 * .5)	+	(\$ 22.00) + (\$ 0.00) = \$ 32.00	+ \$ 8.00	= \$ 40.00
\$ 30.00	\$ 0.00	(\$ 20.00 * .5)	+	(\$ 30.00) + (\$ 0.00) = \$ 40.00	+ \$ 0.00	= \$ 40.00
\$ 24.00	\$ 4.00	(\$ 20.00 * .5)	+	(\$ 24.00) + (\$ 2.00) = \$ 36.00	+ \$ 4.00	= \$ 40.00

- Wages paid in lieu of fringe benefits are not subject to the half time premium. Regarding the last example the contractor would be required to pay a straight time hourly rate of \$26.00 not \$24.00.



- ▶ What if an employee performs work in **multiple classifications** during a work week
 - An employee performing work in **multiple** labor classifications during a work week shall be compensated at the **applicable labor classification overtime rate** in effect at the time the employee works in excess of 8 hours per day or 40 hours per week.



Fringe Benefits Funded and Unfunded Plans



Funded Fringe Benefit Plans

- ▶ Irrevocable **contribution** to financially responsible trustee, third person, fund, plan or program
 - Types of funded plans may include
 - Pension plans
 - Health insurance
 - Life insurance
- ▶ For a **funded** plan to be considered, it must be
 - irrevocable contribution made on behalf of an employee to a financially responsible trustee, third person, fund, plan or program.
 - a commitment that is legally enforced,
 - has been communicated in writing to the employee, and
 - is made available to the employee.



Unfunded Fringe Benefit Plans

- ▶ Contractor furnished in-house benefit
 - Types of unfunded plans may include:
 - Vacation pay
 - Holiday pay
 - Sick or PTO pay
- ▶ **Unfunded** plan to be considered, it must be
 - reasonably anticipated to provide a benefit,
 - a commitment that can be legally enforced,
 - carried out under a financially responsible plan or program, and
 - communicated in writing to the employee.



Costs Not Considered Fringe benefits

- Workers Compensation
- Unemployment Compensation
- Social Security Contributions

Federal, State and
Local Requirements



- Per Diem/Meals
- Lodging
- Fuel or Company Vehicle
- Clothing/Uniform
- Cell Phone

Reimbursable Expenses
“Cost of Doing Business”



Certified Payroll Reports



Report Honestly

Always report accurate information on your payrolls!
Falsifying a report could
result in criminal prosecution!

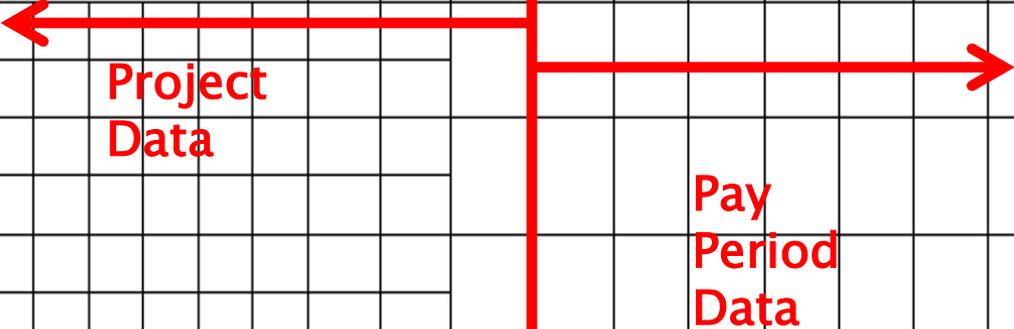


- ▶ A **certified payroll report** (CPR) is comprised of two components, a payroll report and a **statement of compliance** (SOC) report.
 - The payroll report component can be submitted in any form including computerized formats, as long as all required information is provided.
 - The contractor must utilize the MnDOT SOC report. A federal SOC will not be accepted.
- ▶ All contractors performing covered work must submit a CPR. Exceptions may include suppliers, ITOs and other “technical” contractors.



Minnesota Department of Transportation Prevailing Wage Payroll Report

Contractor Name				Prime Contractor Name											
Address and Telephone #				Address & Telephone #											
State Project / Contract Number		Pay Period End Date			Project Location			Payroll #							
(1)	(2)	(3)	(4)	(5) Day of Week (M, T, W, R, F, S, Su) & Date (xx/xx)			(6)	(7)	(8)	(9)	(10) Deductions				(11)
Employee Name, Address and Last Four Digits of Social Security Number	# of Exemptions	Labor Code and	OT	Total Hours This Job	Hourly Rates of Pay	Gross Amount Earned This Job	Gross Amount Eamed This Pay Period	FICA	Federal Tax	State Tax	Other (Specify)	Other (Specify)	Total Deductions	Total Net Wages Paid	
		Classification Title	ST												Hours Worked Each Day
			OT												
			ST												
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MINNESOTA DEPARTMENT OF TRANSPORTATION
PRIME CONTRACTOR – SUBCONTRACTOR'S
STATEMENT OF COMPLIANCE
FEDERAL COPELAND ACT / DAVIS BACON ACT
MINNESOTA PREVAILING WAGE STATUTES

REPORT NUMBER	STATE PROJECT NUMBERS (S)	DATE
PRIME CONTRACTOR/SUBCONTRACTOR	PHONE NUMBER	CONTRACT NUMBER
ADDRESS	FEDERAL PROJECT NUMBER	
TYPE OF WORK		

(Complete as described on proposal)

STATEMENT WITH RESPECT TO COMPLIANCE AND WAGES PAID

I, _____ do hereby state:
(Name of signatory party) (Title)

(1) That I pay or supervise the payment of the persons employed by _____ on said Contract; that during the payroll period commencing on the _____ day of _____ of the year _____, and ending the _____ day of _____ of the year _____, there were _____ workers performing covered work on said Contract. That all persons performing work under said Contract are listed on the payroll and have been paid the full prevailing wages for all hours worked under said Contract, that no rebates and/or deductions have or will be made either directly or indirectly to or on behalf of _____ (Prime Contractor or Subcontractor) from the full wages by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the U.S. Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 1108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145) and/or permissible deductions as defined in Minnesota Statutes 177.24, Subdivision 4, 181.06, and 181.79, issued by the Minnesota Commissioner of Labor and Industry and described below.

DESCRIBE LEGAL DEDUCTIONS

(2) That the payroll submitted under said Contract is complete and accurate; that the wage rate(s) of the laborer(s), mechanic(s), and worker(s) performing work under said Contract is (are) paid according to the wage determination(s) and labor provisions incorporated in said Contract and according to applicable laws; that wages paid to laborer(s), mechanic(s), and worker(s) performing work under said Contract is at least the prevailing wage rate for the most similar classification of labor performed as defined under applicable law; and that the laborer(s), mechanic(s), and worker(s) performing work under said Contract is (are) paid for all hours in excess of the prevailing hours of labor at a rate of at least one and one-half times the applicable base rate of pay.

(3) That any apprentices employed during said payroll period are duly registered in a bona fide apprenticeship program registered with the Minnesota Department of Labor and Industry, or are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That: (Check one box only)

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

In addition to the basic hourly wage rates paid to each laborer, worker, or mechanic listed on said payroll, payments to current, bona fide fringe benefit programs as set forth in paragraph 4(d), have been or will be made to the program's administrators, per state and federal regulations and plan requirements, as set forth in paragraph 4(e) for the benefit of said workers, except as noted in Section 4(c).

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH TO ALL WORKERS

Each laborer, worker, or mechanic listed on said payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic rate plus the fringe rate as listed in the appropriate wage determination incorporated into said Contract.

NOTE--FRINGE BENEFITS SECTION C, D, E, AND SIGNATURE BLOCK IS ON PAGE 2.

pay period end date

Fringe – YES or NO



▶ The contractor must attach a SOC report to its payroll report and submit based on the following:

- **Federal** – 7–day pay period, reports submitted 7 days after pay period ends



- **State** – Up to 14–day pay period, reports submitted 14 days after pay period ends



Off-Site Facility and Trucking Rules



Federal Regulations Off-Site Trucking



- ▶ Two criteria to determine applicability
 - Dedicated Test
 - Includes other federal aid projects
 - Proximity Test
 - Adjacent or “Nearly So”
 - Federal Court Case Addressed 2 miles



Minnesota Regulations Off-Site Trucking

- ▶ **All workers** performing “work under the contract” driving trucks and working at off-site facilities are **covered under state prevailing wage law**
- ▶ However, there are **SOME** exceptions: See Minn. Stat. 177.44 Subd 2.



MnDOT LCU Additional Trainings

- ▶ **Prevailing Wage Regulation & Reporting Requirements for Trucking Entities Working on MnDOT Projects (4 hours: 8:00 to 12:00)**
 - February 24, 2016: Arden Hills Training Center
 - March 8, 2016: St Cloud MnDOT Office
 - March 9, 2016: Duluth MnDOT Office
 - March 15, 2016: Mankato MnDOT Office
- ▶ **Civil Right & Labor Program Training (4 hours Sessions)**
 - 6 Classes still available
 - Electronic Payroll Reporting
 - Prompt Pay Requirement
 - Bidder/Quoters
 - Civil Rights Reporting
 - All MnDOT Projects Let after July 1, 2013
- ▶ See LCU Website for Training **Dates** and **ELearning** tools
www.dot.state.mn.us/const/labor



Contact Information



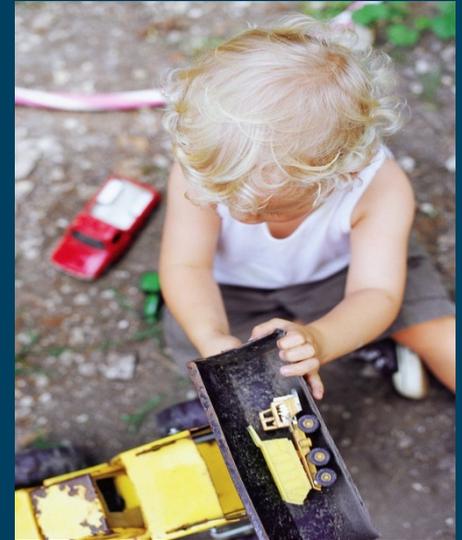
MnDOT LCU Contacts

- ▶ Charles Groshens, LCU Supervisor
 - (651) 366-4209
- ▶ Clancy Finnegan, Team Leader
 - (651) 366-4204
- ▶ Kirsten Reyes, Investigator Sr.
 - (651) 366-4229
- ▶ Roxanne Wilder, Investigator Sr.
 - (651) 366-4203
- ▶ Jackie Klein, Investigator Sr.
 - (651) 366-4208
- ▶ Amanedia Dear, Program Coordinator
 - (651) 366-4202
- ▶ **LCU Support: LCUsupport.DOT@state.mn.us**
 - **Phone Number: 651-366-4238**
 - **Primary contact: Conformances, Vendor Forms, CRL, Prevailing Wage Questions**



Labor Compliance Websites

- ▶ MnDOT Labor Compliance Unit
 - www.dot.state.mn.us/const/labor
- ▶ MN Department of Labor & Industry
 - www.dli.mn.gov/LaborLaw.asp
- ▶ U.S. Department of Labor
 - www.dol.gov
- ▶ Office of Reviser
 - Labor Classification Definitions (May 2011)
 - Laborers:
 - www.revisor.mn.gov/rules/?id=5200.1101
 - Special Crafts:
 - www.revisor.mn.gov/rules/?id=5200.1102



DLI's Role in Prevailing Wage

- ▶ Certify the prevailing wage rates
- ▶ Perform worksite project reviews
- ▶ Investigate complaints about potential violations
- ▶ Conduct training and outreach to contractors and contracting authorities



Survey Participation

- ▶ **Prevailing-wage** survey forms are specific to a project (both private and public). A different form should be submitted for every project where work was performed during the survey period.



- ▶ Only complete forms will be used. Incomplete data will be returned for resubmittal.



Frequent Errors on Surveys

- ▶ Indicating the incorrect type of construction
- ▶ Project date
- ▶ Reporting the same individual twice
- ▶ Selecting the incorrect job code
- ▶ Being too general on project ID or description
- ▶ Payroll records that list total hours worked, gross pay, deductions and net pay



Recordkeeping requirements

- ▶ Name, address and occupation
- ▶ Rate of pay and amount paid each pay period
- ▶ Hours worked each day with a.m. and p.m. designation
- ▶ The prevailing–wage master job classification of each employee working on the project for each hour worked
- ▶ Records of payments submitted to bona fide fringe funds and other documentation of fringe benefits
- ▶ Payroll records that list total hours worked, gross pay, deductions and net pay



Failure to pay prevailing wages

- ▶ Since July 1, 2007 DLI has recovered more than \$2.2 million in back wages and resolved 640 investigations.



Failure to pay prevailing wages

- ▶ The most common sources of prevailing wage violations are
 - misclassification of labor,
 - nonpayment of overtime,
 - issues related to benefits, and
 - issues related to apprenticeship.





Questions or concerns?

Department of Labor and Industry
Apprenticeship and Labor Standards

443 Lafayette Road N.
St. Paul, MN 55155

Phone: (651) 284-5091 or 1-800-DIAL-DLI (1-800-342-5354)

www.dli.mn.gov

dli.prewage@state.mn.us

Your Destination... Our Priority



Questions?

