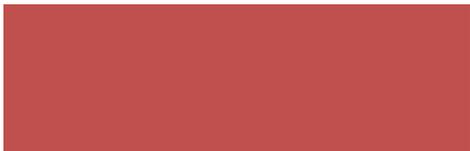


Northwest/North Central Regions Labor Compliance Payroll Training

April 29th, 2015



Agenda

- **Responsibilities' of Important Stakeholders**
- **Applicable State & Federal Laws**
- **Additional Special Provisions (ASPs)**
- **Prevailing Wage Rates**
- **Overtime**
- **Fringe Benefits**
- **Trucking**
- **Civil Rights Compliance System (CRCS)**
- **Q & A Session with Regional EROs**

RESPONSIBILITIES OF IMPORTANT STAKEHOLDERS

EROs, Prime Contractors, & Subcontractors

Equal Rights Officer's Responsibilities

- ❑ Enforcing prevailing wage laws
- ❑ Educating contractors at pre-con meeting
- ❑ Reviewing certified payroll reports (CPRs)
- ❑ Monitoring prompt payment
- ❑ Monitoring DBE Commitment fulfillment
- ❑ Approving subcontractor sublets
- ❑ Conducting wage complaint investigations
- ❑ Performing on-site wage interviews
- ❑ Monitoring contractor equal employment opportunities

WisDOT Equal Rights Officers

Northwest Region

Laurie D. (715) 392-7977

North Central Region

Adrienne M. (715) 421-8332

Northeast Region

Jason J. (920) 492-5728

*Theresa R (920) 492-5715

Southeast Region

Natalia V. (262) 521-5358

Laurie N. (262) 548-5634

Stephanie L. (262) 548-5671

*Margaret P. (262) 521-5337

*Janice S. (262) 548-5923

Southwest Region

Deb H. (608) 785-9051

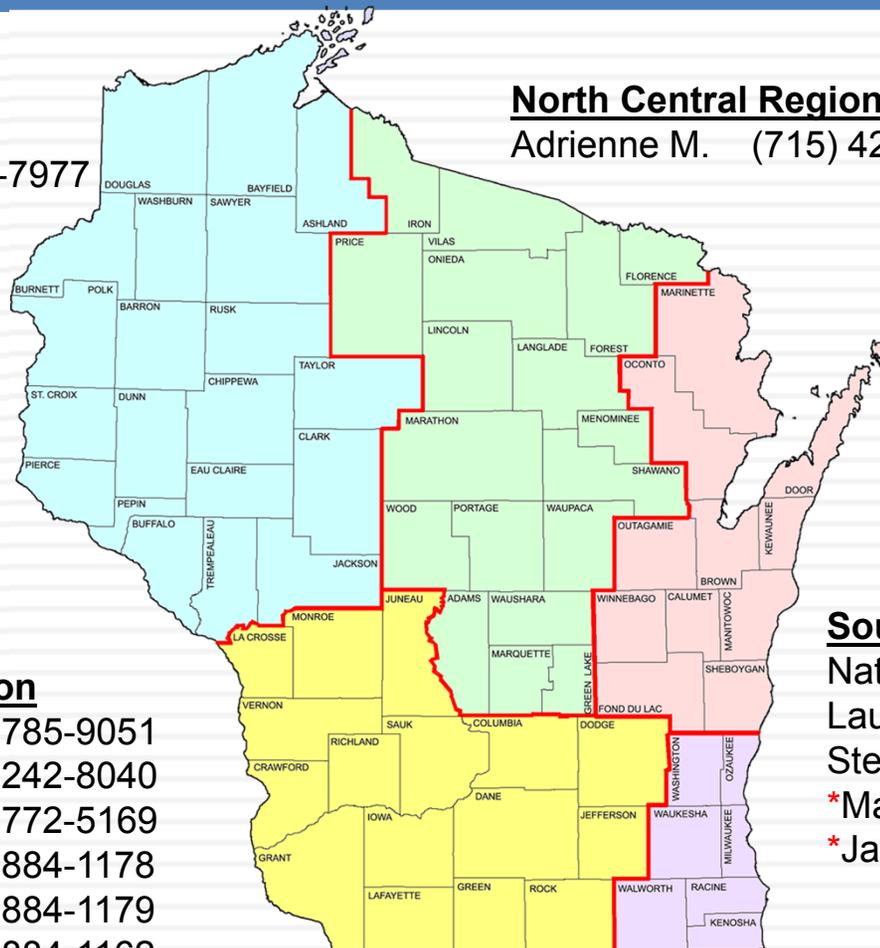
Tim A. (608) 242-8040

*Julie H. (608) 772-5169

*Deb H. (608) 884-1178

*Diane Z. (608) 884-1179

*Scott B. (608) 884-1162



Aeronautics

Shannon C. (608) 267-7108

Crystal W. (608) 264-8700

*Mega Projects

Prime Contractor's Responsibilities

- ❑ The prime contractor is ultimately responsible for ensuring contract compliance for all lower-tier subcontractors
- ❑ Provide wages and contract requirements to your subs and enforce that your subs do the same
 - “Flow-down”
- ❑ Ensure that CRCS reporting requirements are met for all subs
- ❑ See that your subs have an acceptable accounting and reporting practice
- ❑ Stay in contact with your ERO regarding issues and follow up with subcontractors regarding non-compliance
- ❑ Review state and federal wage determinations to ensure all applicable classifications are listed.

Prime Contactor – Before Project Start

- Contract Award:
 - Awarded to the lowest competent and responsible bidder as determined by the department

- Contract Execution:
 - Make sure all bonding information has been sent to central office
 - Make sure 30% spreadsheet has been submitted & approved by central office
 - Make sure DBE Office has the DBE Commitment
 - If DBE Goal isn't met, prime contractor must have a Good Faith Waiver approved by the DBE Office
 - DBE Office needs a DBE commitment for all ASP 3 projects
 - Contracting Log: <http://dotnet/hcci/contracting-information/contractlogfy15.pdf>

- Contract Subletting:
 - All first tier subcontractors and DBE contractors must be added in CRCS
 - 2 signed Request to Sublet forms (DT1925) must be sent to our office electronically or via "snail mail"
 - CRCS, DT1925, and DBE Commitment amounts must all match

Prime Contractor – Subletting Contract Work

- Notify our office that your firm is adding a sub-contractor
 - Make sure sub-contractor is loaded into CRCS
 - For 1st tier & DBE Firms – Submit a sublet request (DT 1925)
 - For all other tiers – Submit written notification to ERO

- Your subcontracts must contain:
 - FHWA 1273
 - Prevailing wage rates
 - All other important Information about all laws and provisions of the contract
 - ASP1, ASP 9, Prompt Payment, Retainage, Etc.

Prime Contractor - Construction Bulletin Board

Prime contractor must maintain a jobsite bulletin board with all applicable posters in a easily accessible location for all workers.



NOT ACCEPTABLE



PERFECT



NOT ACCEPTABLE

- Weather proof
- Posters must be easily readable
- WisDOT provides a courtesy list of required posters

Subcontractor Responsibilities

- ❑ Your subcontractors must be assigned in CRCS, by you, and approved by the ERO before they can begin working.
- ❑ Post progress payments made to DBE subcontractors, in CRCS
- ❑ Confirm progress payments, made to your organization, in CRCS
- ❑ Check CRCS to confirm your subcontractors have submitted the required certified payrolls.
- ❑ Your subcontracts must contain:
 - FHWA 1273
 - Prevailing wage rates
 - All other important Information about all laws and provisions of the contract
 - ASP1, ASP 9, Prompt Payment, Retainage, Etc

APPLICABLE STATE & FEDERAL LAWS

“State of Wisconsin, USDOL, & FHWA Regulations”

Overview



- Prevailing wages
 - Rates and Fringe benefits
- Covered employees
- Classifications
- Record keeping
- Reporting
- Investigations
- Flowdown

Wisconsin State Statute 103.50

❑ Prevailing Wage and Hour Requirements

- ❑ Employees may not be paid less than prevailing wage determined in the contract
- ❑ Any person who has an employee give up, waive, or return any part of their compensation, reduces the hourly basic rate of pay on private work to offset prevailing wage work or threatens not to employ or terminate employment, is guilty of an offense

❑ Covered Employees

- ❑ All laborers, operators, skilled workers, mechanics and truck drivers:
 - Employed on the site of a project
 - Employed in the manufacturing or furnishing of materials and equipment on the site of a project
 - Truck drivers must be paid for **all** prevailing wage hauls
 - Truck drivers do not get paid by the ton nor load
 - An owner-operator of a truck shall be paid **separately** for his or her work and for the use of his or her truck

Wisconsin State Statute 103.50 (cont'd)

- ❑ Penalties
 - ❑ Contract payments may be withheld
 - ❑ May be subject to contract termination
 - ❑ May be subject to suspension or debarment from future WisDOT contracts for as long as three years
 - ❑ Each day that a violation continues is a separate offense

- ❑ Enforcement
 - ❑ The department may demand and examine from any contractor and their agent, copies of payrolls and other records and information relating to compliance.

- ❑ <http://docs.legis.wisconsin.gov/statutes/statutes/103/50>

Section DWD 272.10, Wis. Admin. Code

- DWD Wage Payment and Collection Law
- Employers are required to state clearly on each employee's paycheck:
 - Number of hours worked
 - Amount and reason for each deduction
 - Rate of pay
 - If multiple pay rates are paid in one pay period, i.e. State work vs. private work, these rates, hours, and description of work/classification must be broken down on pay stub
- http://docs.legis.wisconsin.gov/code/admin_code/dwd/270_279/272/10

Section DWD 272.10, Wis. Admin. Code (cont'd)

- Record Keeping Requirements:
 - Employers must make and keep payroll or other records for at least three years for each of their employees.
 - These records must contain:
 - Name and address
 - Date of birth
 - Date of entering and leaving employment
 - Time of beginning and ending of work each day
 - Time of beginning and ending of meal periods
 - Total number of hours per day and per week
 - Rate of pay and wages paid each payroll period
 - The amount of and reason for each deduction from the wages earned
 - Output of employee, if paid on other than a time basis

The Davis Bacon Act - USDOL

- Applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000

- Requirements
 - ▣ Pay laborers, operators, skilled workers, mechanics, and truck drivers no less than the prevailing wage rates and fringe benefits listed in the contract's Davis-Bacon wage determination
 - ▣ Apprentices may be employed at less than predetermined rates if they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department.
 - ▣ Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency
 - ▣ Each day that a violation continues is a separate offense

- Penalties
 - ▣ May be subject to contract termination and debarment from future contracts for up to three years.
 - ▣ Contract payments may be withheld

The Davis Bacon Act – USDOL (cont'd)

- Under the DBRA, covered contractors must maintain payroll and basic records for all laborers and mechanics during the course of the work and for a period of three years thereafter

- Records to be maintained include:
 - ▣ Name, address, and Social Security number of each employee
 - ▣ Each employee's work classifications
 - ▣ Hourly rates of pay, including rates of contributions or costs for fringe benefits
 - ▣ Daily and weekly numbers of hours worked
 - ▣ Deductions made
 - ▣ Actual wages paid
 - ▣ detailed information regarding fringe benefit plans and programs, including records that show that the plan or program has been communicated in writing to the employee
 - ▣ detailed information regarding approved apprenticeship or trainee programs

- <http://www.dol.gov/whd/contracts/dbra.htm>

FHWA 1273

- Federal Highway Administration Contract Provision
 - <http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>
- Form FHWA-1273 must be physically incorporated in all contracts and subcontracts funded with Title 23 funds. This includes prime contracts, subcontracts, and lower-tier subcontracts.
- Non-compliance with any of the FHWA-1273 requirements may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.
- Covers compliance regarding: EEO, Reporting, Recruitment, Apprentices, overtime, wages withholding and more.

ADDITIONAL SPECIAL PROVISIONS

“Additional WisDOT Contract Provisions”

ASP 1

On-the-Job Training (OJT) Reimbursements

- Goal for use of TrANS Graduates and TrANS Apprentices on WisDOT projects
 - ▣ TrANS = Transportation Alliance for New Solutions
 - WisDOT & Federally-funded training program

- Reimbursement of \$5.00 per hour
 - ▣ Federally funded projects only

- Eligibility for employees is capped at 2,000 hours from initial hire date by original contractor after graduation
 - ▣ No cap for Trans-Grad Apprentices

- <http://dotnet/hcci/contracting-information/asp-1.pdf>

ASP 3

Disadvantaged Business Enterprise Program

- Goals & details regarding subcontracting to Disadvantaged Business Enterprises (DBE) on WisDOT projects.
- Only applies to federally funded projects
- DBE goal percentage is listed on the cover of the Highway Work Proposal
- <http://dotnet/hcci/contracting-information/asp-3.pdf>

ASP 4

Prompt Payment

- Payment to First-Tier Subcontractors
 - Within 10 calendar days of receiving a progress payment for work completed by that subcontractor

- Withholding Payments
 - Written requests must be sent to the project engineer & project manager
 - Also to the prime contractor if lower tiered
 - **Subcontractor must be notified**

- If you are having issues receiving payment please contact
 - WisDOT Project Engineer
 - WisDOT Project Manager
 - Prime Contractor (if lower tier)

- <http://dotnet/hcci/contracting-information/asp-4.pdf>

ASP 7

Reporting 1st Tier & DBE Payments

- Report 1st tier and DBE payments, in the Civil Rights & Compliance System (CRCS), within **10 calendar days** of receipt of a progress payment

- All payments need to be confirmed in CRCS, by the subcontractor

- On Mega Projects, all payments regardless of tier or DBE status should be reported and confirmed in CRCS
 - ▣ Helps to accurately report DBE payments to federal agencies and the general public

- <http://dotnet/hcci/contracting-information/asp-7.pdf>

Commitment to Subcontract to DBE Prime Contractors' Role (ASP 3 & 7)

- ❑ On WisDOT projects, Prime contractors are required to submit a DBE commitment on contracts with Federal dollars
- ❑ The Prime contractor is required to monitor the DBE commitment on the project so that an accurate DBE percentage of the work can be reported to FHWA
- ❑ WisDOT is beginning to monitor payments made to DBE firms more closely
 - ❑ WisDOT will contact the Prime contractor at project midpoint and project end to verify DBE contract commitments are on track and will be met

ASP 9

Electronic Certified Payroll Submittal

- ❑ Electronic payrolls must be filed in the Civil Rights & Compliance System (CRCS)
- ❑ Due within 7 calendar days of the close of the payroll period
- ❑ It is the prime contractor's responsibility to make sure all of their subs enter their payrolls on time
- ❑ <http://dotnet/hcci/contracting-information/asp-9.pdf>

PREVAILING WAGE RATES

“White Sheet Rates”

Where Do Prevailing Wage Rates Come From?

□ **State Wage Rates**

- Department of Workforce Development (DWD)
- Determined by a survey of contractors
- Changes occur usually once a year around the month of May
- Contact DWD concerning issues with wage rates
- <http://www.dot.wi.gov/business/civilrights/laborwages/wagesheets-state.htm>

□ **Federal Wage Rates**

- U.S. Department of Labor (USDOL)
- In most cases corresponds with union scale
- Changes sporadically when union contracts are reviewed
- <http://www.dot.wi.gov/business/civilrights/laborwages/wagesheets-fed.htm>

Prevailing Wage Rate Facts

- **Prevailing Wage Rates (“White Sheet Rates”)**
 - Will vary by project, let date, county, & funding
 - Rates are for the life of the contract
 - For federally funded projects, pay the higher of the two wage rate sets (State vs. USDOL Davis Bacon)
 - Pay the higher of the straight-time total packages

- **Future Pay Increases**
 - Only apply to state rates
 - Typically applies to laborers, HEOs, truck drivers, & some skilled trades classifications
 - Add all future increases to date
 - Future increases can be added to the basic rate or fringe fund
 - If added to basic rate, must then be included in OT calculation

Prevailing Wage Rate Facts (cont.)

- **Premium Pay Increases**

- Are apart of specific classifications
- Must be added to the basic hourly wage rate of pay
- Must be included in over-time calculation

- **Artificial Illumination (Night Work) Pay Increases**

- Applies to laborers, skilled trades, truck drivers, and HEOs
 - See specific classifications for when and under what conditions this must be paid

Selecting the Correct Classification(s)

- Employees must be paid for the work they are performing
 - ▣ If an employee performs multiple tasks (laborer, skilled trade, operator, etc.) that employee must be paid at each of those rates
 - ▣ Type of work performed determines classification to be used, not union affiliation

- Classifications are determined by Wisconsin DWD and USDOL
 - ▣ Separate from union affiliations

- DWD website has a dictionary description of classifications
 - ▣ http://dwd.wisconsin.gov/er/prevaling_wage_rate/Dictionary/dictionary_main.htm

OVERTIME

Regulations and Calculations

WisDOT Overtime Regulations

- Paid at 1.5 x the basic hourly rate of pay
 - ▣ The higher of the employee's actual basic rate vs. the prevailing basic rate must be paid

- Paid on all hours worked in excess of **10 hours in one day** on WisDOT projects.

- Paid on all hours worked in excess of **40 hours in one week** on WisDOT projects.

- Paid on all hours worked on **Saturday, Sunday, & Major Holidays** on WisDOT projects.
 - ▣ Some classifications require **Double-time** on Sundays and Major Holidays (See specific classifications in state wage rate sets)

OT Examples

(Review OT Correspondence Memorandum)

- ▣ OT Memo – Scenario #1
 - Contractor pays OT exactly as in the contract

- ▣ OT Memo – Scenario #2
 - Occurs when the actual basic rate paid is lower than the required prevailing basic rate & when the actual fringe benefits paid are higher than the required prevailing fringe benefit package

- ▣ OT Memo - Scenario #3
 - Occurs when the actual basic rate paid is higher than the required prevailing basic rate & when the actual fringe benefits paid are lower than the required prevailing fringe benefit package

Friday Night Work

- Hours of work are based on a 24 hour period
 - ▣ **Not** calculated based on 8 or 10 hour shifts

- Employees must be paid OT beginning at 12:00 A.M. Saturday

- This could also include a “Night Shift Premium” for applicable classifications

FRINGE BENEFITS

Reporting and Crediting

Prevailing Wage = Wages + Fringe

- A contractor's prevailing wage obligation may be met by any combination of cash wages and creditable "bona fide" fringe benefits provided for a covered worker

- The total, including any fringe benefits listed for the classification, may be paid
 - Entirely as cash wages
 - Payments made or costs incurred by the contractor for "bona fide" fringe benefits may be creditable towards fulfilling the prevailing wage requirement.
 - A combination of cash wages paid and "bona fide" fringe benefits may be used together to meet the total required prevailing wage.

Fringe Benefit Fund Requirements

- ❑ Contributions to fringe benefit plans must be made no less than quarterly
- ❑ Fringe benefits must be “bona fide”
- ❑ Employees must be notified of their benefits in writing and this must detail how to obtain these benefits
- ❑ Vacation and Sick Leave plans- will be considered a bona fide plan if:
 1. Reasonably can be anticipated to provide benefits described in the D-B Act
 2. Represents a commitment that can be legally enforced
 3. Is carried out under a financially responsible plan or program
 4. Has been communicated in writing to the affected employees
 5. Monies must be set aside in an account with sufficient assets to meet the future obligations of the plan
- ❑ Fringe benefits must be credited to all hours worked on both public and private jobs
- ❑ More Information: <http://www.dol.gov/whd/recovery/pwrp/toc.htm>

Fringe Benefits – Cash Payments

❑ **Cash in Lieu of Fringe**

- Cash Fringes are those paid directly to an employee on their paycheck
- Employees who are excluded from a fringe benefit plan & for whom the employer makes no contribution, must be paid in cash
- If fringe benefits do not meet prevailing wage fringe package, the difference must be paid

❑ **If you are paying fringes in cash**

- A cash fringe must be included in the employee's project wages and directly on their paychecks
- Breakdown of cash rate of pay should also appear on employees' pay statement
- The hourly cash fringe benefit should be recorded in the cash payment column

Fringe Benefit Funds

APPROVED

- ☑ Health & Welfare
- ☑ Vacation
- ☑ Pension
- ☑ Skill Improvement
- ☑ Labor Management
- ☑ Education,
Apprenticeship,
& Training

NOT APPROVED

- ☹ Food, Lodging, Mileage,
Riding Time, Call-In Time
- ☹ Overtime
- ☹ Worker's Comp
- ☹ Contractor's
Transportation Education
Fund
- ☹ Profit Sharing

Crediting Fringe Benefit Funds – Example #1

- The Benefit:

- 7 holidays per year at \$10.00 per hour
- The employee only works 7.5 months

- The Calculation:

- Assumption: 2080 hours per year or 173 hours per month
- 7.5 months x 173 hours = 1297.50 hours
- 7 holidays x 8 hours per day = 56 hours
- 56 hours x \$10.00 per hour = \$560.00
- \$560.00 divided by 1297.50 hours = **.43 credit off total package**

Authorized Deductions

ACCEPTABLE

- ☑ Charitable Contributions
- ☑ Court-ordered Wage Garnishments
- ☑ FICA
- ☑ Pension Plans
- ☑ Savings Bonds
- ☑ Union Dues

NOT ACCEPTABLE

- ☹ Clothing required by Employer
- ☹ Damage to Company Property
- ☹ Disciplinary Penalties
- ☹ Lodging
- ☹ Loss of Tools

Be ready to verify deductions!
Must have written agreement with employees for all deductions.

TRUCKING

Prevailing Wage Hauls, Reporting, & Monitoring

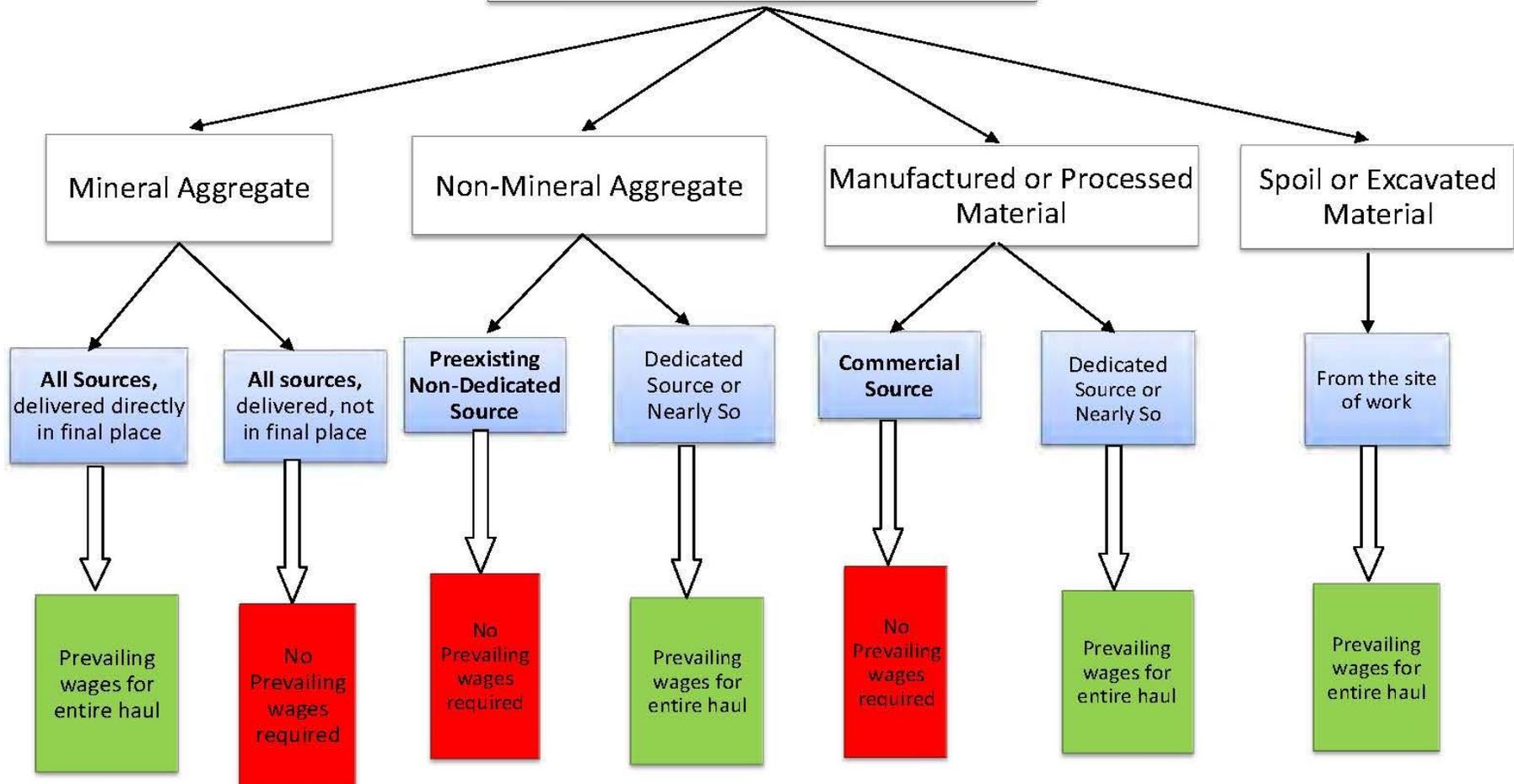
Trucking Recommendations

- Contractors (Primes, Subs, & Brokers)
 - Create spreadsheets tracking: trucks, trucking tickets, hours, materials, source of material, destination, etc.
 - Make sure payrolls are submitted when issuing progress payments
 - Notify brokers and truck drivers that you are using them on a WisDOT project
 - Make sure they fully understand prevailing wage and trucking guidelines

- Trucking Companies
 - Fully understand the trucking guidelines
 - Keep copies of trucking tickets, invoices, truck logs, employee hours, etc.
 - Review invoices and notify prime contractor of any missing progress payments



Types of Material



CIVIL RIGHTS COMPLIANCE SYSTEM

Electronic Payroll & Payment Reporting

CRCS Information

- ❑ Civil Rights Compliance System Website
 - ❑ <https://app.mylcm.com/wisdot>

- ❑ Labor and Wage Compliance Resource Website
 - ❑ <http://www.dot.wi.gov/business/civilrights/laborwages/psc.htm>

- ❑ Paul Ndon – CRCS Specialist
 - (414) 438-4588
 - Paul.ndon@dot.wi.gov

- Moving to “CRCS 2.0” in 2015
 - Webinar trainings will be available
 - Easier Use, Reduces Glitches, Increased Functionality, etc.

- CR&L/AASHTOWare is under study by WisDOT for future implementation

Requirements to Submit Certified Payrolls

- All contractors must be registered in CRCS
 - Register Here: <https://app.mylcm.com/wisdot/Registration/Registration.aspx>
- All contractors must upload an electronic signature
 - Needed to electronically sign the “Statement of Compliance”
 - This electronic document certifies the employees were paid correctly and all information has been reported correctly
- All contractors must enter relevant employee data
 - Employee names, addresses, SSN’s, classifications, and classification levels

Tips for Reporting Certified Payrolls

- Payrolls must be submitted and paid **weekly**
- Detail fringe benefit payments, deductions, and other employee payments on each certified payroll
 - Use the fringe benefit template to accurately document hourly contributions
- If no work is done during a week submit a **non-performance report**
 - Submit a **suspension payroll** when there are several weeks without work
- When finished with all contract work submit a **final flag payroll**
- Payrolls must be retained for **three years** from the final payment of the contract

Rejected Payrolls

- If a payroll is in violation of prevailing wage regulations it will be **rejected**
 - ▣ Contractors will receive an automatic email notification outlining the reason for the rejection, directions on how to resolve the rejection, and the deadline for resolution
 - ▣ The ERO contact will be listed in the rejection notice

- Standard resolution requirements
 1. Make an **adjustment** to the payroll in order to correct an underpayment
 2. Make an **edit** to the payroll in order to correct an entry error
 3. Make a **comment** in statement of compliance outlining the correction made
 4. Email a **spreadsheet** to the ERO outlining retro payment calculations
 5. Email **cancelled back wage checks** to the ERO

Electronic Payment Reporting

- Contractors must report all payments made to **1st tier & DBE subcontractors**
 - ▣ Within 10 calendar days
 - ▣ For all work deemed acceptable by WisDOT and Contractor
- All contractors must confirm payments made and reported to them
 - ▣ If there is a dispute please flag the payroll as “disputed payment”
- Prime contractors must reduce retainage to **zero** upon final payment made by WisDOT

QUESTIONS ?

