CONSTRUCTION DIRECTIVE 07220.100.18 February 1, 2002

SUBJECT: Payroll Compliance Inspections

FORM NO: OOC 52, OOC 53, OOC 54 and FHWA 1140

REFERENCE: SHA Labor Compliance Manual dated 01/98

PURPOSE:

To establish procedures to ensure that Contractor employees are paid in accordance with the provisions of FHWA Form PR-1273 for all Federal-aid contracts exceeding $2,000.00 and all related subcontracts, as well as for State-funded contracts exceeding $500,000.00. The Specifications require that no less than 50 percent of the work shall be performed by the Prime Contractor.

PROCEDURE:

The Project Engineer is responsible for insuring that (for the prime and all subcontractors):

- Employee interviews are conducted and checked against payrolls
- Payrolls are checked and a copy is stored in the project files
- Additional classification requests are made and replies from the US Department of Labor (USDOL) are complied with
- All required posters are posted on the project bulletin board
- District EEO Office is notified of discrepancies regarding Minority/Disadvantaged Business Enterprises (M/DBE's) payrolls

NOTE: The Project Engineer is not responsible for checking computations.

The Wage and Hour Team is responsible for:

- Conducting statewide spot payroll checks and reporting results to the Project Engineer with a copy to the District Engineer
- Processing additional classification requests through USDOL
- Area Practice Surveys
- Following up labor compliance issues that cannot be resolved between the Contractor and the Project Engineer
- Issuing additional guidance on labor compliance issues
- Conducting periodic labor compliance training for CID and consultant personnel The District Equal Opportunity Officer is responsible for:
- Poster distribution at the Pre-Construction Conference
- Appropriate action for discrepancies involving M/DBE subcontractor payrolls that are reported to them by the Wage and Hour Team or the Project Engineer

A. **Payroll Compliance Interviews:**

Project staff will interview all prime and subcontractor employees that are working on the project. For employees that are on a project for more than three months, conduct

PROCEDURE: (continued)

follow-up interviews every three months. These interviews will be done in accordance with Form OOC 52, *Payroll Compliance Check,* and signed by the employee. After each interview, the form should be filed in the "Unchecked Payroll Compliance Interviews - Contractor's Name" file.

If an employee does not wish to answer any questions, enter under 'comments' on Form OOC 52 and advise them that they are entitled to contract prevailing wages. If they believe they are not getting paid in accordance with these rates, they should inform an SHA inspector.

If an employee does not speak English, show the employee the contract prevailing wage rates and indicate the rate for the classification in which the employee is working. If another employee assists the interviewee, this should be noted on the interview form and the employee should still be shown the contract prevailing wage rates.

B. **Payrolls:**

The Contractor and subcontractors working on the site are required to submit payrolls to the Project Engineer within seven calendar days after the end of each payroll period. The payrolls and Statement of Compliance should be checked for items listed on Form OOC 53, *Payroll Compliance Report.*

- If errors are found: note error on Form OOC 53 and forward a copy of Form OOC 53 to the Contractor for correction. Form OOC 54, *Payroll Summary Report,* should be kept in the front of the Payroll file for the prime contractor and each subcontractor.

- If the payroll contains no errors: check against any interviews completed during the period covered by the payroll and file in the Payroll file for that Contractor.

Check completed interviews against payrolls to insure that:

- Employee wages are in accordance with contract prevailing wages.

- Wages reported by employees match those on the payroll.

Initial the interview form to show that it was checked against the payroll. File the interview in the "Checked Payroll Compliance Interviews -Contractor's Name" file.

Report any errors noted or discrepancies between payrolls and interviews to the Contractor within 24 hours. The Contractor must correct and resubmit payrolls by the end of the following week. If an error was made in employee pay, the Contractor must

PROCEDURE: (continued)

show that the difference in payment was made to the employee by showing a cancelled check for the difference. If the corrected payroll and proof of payment to the employee are not received by the 30th day following the period covered by the payroll, the Project Engineer shall notify the Wage and Hour Team at 410-545-8795 for resolution.

File corrected payrolls and any supporting documents in the "Payrolls - Contractors Name" file.

C. **Additional Classifications:**

If the Contractor uses a classification not found on the contract wage rate determination, note this on Form OOC 53 and forward a copy of this form to the Contractor. If the Contractor believes that no other classification listed on the wage rate determination covers the work performed by his employee, the Contractor shall submit a request for additional classification, Form FHWA 1140. If the Contractor has not submitted this form one month after the date the work was performed, the Project Engineer shall notify the Wage and Hour Team for resolution.

The form should be submitted to the Wage and Hour Team who will submit it to USDOL and return USDOL's reply to the Contractor and the Project Engineer. Once the USDOL's reply has been received, the Contractor must pay any difference between the wages he proposed and the wages USDOL approved, if any. If the Contractor has not shown proof that this payment has been made within one month of receiving USDOL's reply, the Project Engineer will notify the Wage and Hour Team for resolution. File all additional classification correspondence, including proof of payment of any additional wages required, in a file marked "Additional Classification Requests".

D. **Posters:**

All required posters will be handed out by the District EEO Officer at the project pre-construction meeting. These posters must be displayed on the project bulletin board for the duration of the contract. Notify the Contractor if these posters are missing. if posters are missing more than one week, the Project Engineer shall notify the Wage and Hour Team for resolution.

E. **Spot Checks by Wage and Hour Team:**

The SHA Wage and Hour Team will visit SHA projects on a regular basis. All project payrolls will be spot checked. All files will be inspected. Any errors or missing payrolls will be noted in a report to the District Engineer, with a copy to the Project Engineer. Any errors or missing payrolls must be resolved within one month of the spot check.

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PROCEDURE: (continued)

F. **Noncompliance:**

The Project Engineer will notify the Area Engineer and the Wage and Hour Team when the Contractor fails to comply with the specified corrective action within the time allowed. The Wage and Hour Team will follow up to resolve the issues within two weeks. Failure by the Contractor to comply within the time frame specified will result in a recommendation from the Wage and Hour Team to the District Engineer, with a copy to the Project Engineer, to withhold progress payments until the issue is resolved.

G. **File Organization:**

Each Contractor and Subcontractor file shall contain the following sub-files:

- Payrolls
- Payroll Summary Report (OOC54)
- Unchecked Payroll Compliance Interviews (Payroll Compliance Check – OOC52)
- Payroll Compliance Report (OOC53)
- Additional Classification Requests

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APPROVED:

Director, Office of Construction