

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

Labor Compliance
700 E Broadway Avenue
Pierre, SD 57501-2586
(605) 773-3795

INSTRUCTIONS FOR COMPLETING SDDOT CONTRACTOR'S STATEMENT OF COMPLIANCE FORM

This form is Word 97 & 6.0/95 document. Use your tab or arrow keys to navigate from cell to cell of the form. The **Statement of Compliance (Statement) Required by Regulations, 29 CFR Parts 3 and 5:** While this form need not be notarized, the Statement is subject to the penalties provided by 18 USV 1001; namely, possible imprisonment of five years or \$10,000 fine or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true. A signed contractor's statement of compliance is required to be attached to each weekly Certified Payroll Report (Payroll) for each week work is performed on the covered project. Employees will be paid unconditionally and not less often than once a week. **The Statement and Payroll must be submitted to the Contracting Agency (SDDOT) within 7 days after the regular payment date of the payroll period.**

Space has been provided between item (2) and (3) of the Statement for **describing any payroll deductions made.** All payroll deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR Part 3 (http://www.dol.gov/dol/allcfr/ESA/Title_29/Part_3/29CFR3.5.htm).

Please check box 5(a) or box 5(b).

Paragraph 5(a) of the Statement of Compliance-Contractors who pay all bona fide fringe benefits to approved plans, funds, or programs shall continue to show on the face of the Payroll *the total weekly cash value* of the bona fide fringe benefits paid for each employee (whether fringe amounts are listed in the applicable wage decision or a fringe contribution is credited toward fulfilling the basic hourly wage rate requirement). Although it is not necessary to pay time and a half on cash paid in lieu of fringes, **at least the basic hourly wage rate listed in the contract wage determination must be used in computing overtime pay obligations.** Such a contractor shall check paragraph 5(a) of the Statement of Compliance. Any exceptions shall be noted in section 5(c).

Paragraph 5(b) of the Statement of Compliance-Contractors who pay no bona fide fringe benefits. The contractor shall check paragraph 5(b) of the Statement of Compliance to indicate that he is paying in cash directly to his employees in an amount not less than the sum of the applicable minimum wage rate for each classification plus the amount of the required fringe benefits as listed in the contract wage decision. Any exceptions shall be noted in Section 5(c).

Use of Section 5(c), Exceptions: Any contractor, who is making fringe payments in amounts less than the wage determination requires, is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 5(a) or 5(b), whichever the contractor may check, shall be entered in Section 5(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or program fringes.

INSTRUCTIONS FOR COMPLETING SDDOT CERTIFIED PAYROLL REPORT FORM

General: The Payroll form is an Excel 97 & 5.0/95 worksheet, which contains formulas. Save the form with your own file name and directory. Use your arrow keys to navigate from cell to cell. Properly filled out, this form satisfies the payroll requirements of 29 CFR, Parts 3 and 5 of the Davis-Bacon and Related Acts.

Reporting Contractor: Fill in your firm's name and telephone number, complete the project and the week ending information, provide the prime contractor's name and address. **Failure to list the Project Control Number (PCN) and PROJECT NUMBER may delay processing.**

Column 1 – Employee's Name and Individual Identifying Number: Enter each employee's full name and an individual identifying number (e.g. last four digits of social security number). **The U.S. DOL's Final Rule, effective January 18, 2009, stipulates that employees' full social security numbers and home addresses shall not be included on weekly payroll transmittals.**

Column 2 – Employee's Federal Withholding Exemption: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 – Group Code & Work Class: List the Wage Decision Group Code **AND** the specific Work Classification description of work actually performed by employees. Consult the minimum wage schedule set forth in the contract for the group code and work classification. **Employees may be shown as having worked in more than one classification by separate line entries on the payroll.**

Column 4 – Hours Worked THIS PROJECT: Record the daily regular and overtime hours worked on THIS PROJECT. On all contracts subject to the Contract Work Hours Standard Act, enter as overtime any hours worked in excess of 40 hours in a workweek.

Column 5 – Total Hours (REG and OT) THIS PROJECT: Self-explanatory.

Column 6 – Base Wage: List the actual regular-time (REG) and overtime (OT) hourly rates paid on this project.

Column 7 – Gross: Enter gross amount of regular and overtime wages that employees **earned on THIS PROJECT.**

Columns 8 through 15 - All Projects: Eight columns are provided for showing if employee(s) worked on other jobs in addition to THIS PROJECT. Record total hours worked, weekly fringes*, gross earnings, deductions, and net pay **for All Projects, including THIS PROJECT's information.** **The amounts in columns 8 through 15 (ALL PROJECT information) must reflect the employees' check stub totals.**

**MAIL ONE COPY WITH AN ORIGINAL SIGNATURE OF THE COMPLETED STATEMENT AND PAYROLL TO:
SDDOT LABOR COMPLIANCE, 700 E BROADWAY AVE, PIERRE SD 57501-2586
(Please ensure that the 4-digit PCN Number is listed on the Statement and on all pages of the Payroll)**

FREQUENTLY ASKED QUESTIONS (FAQs) ABOUT COMPLETING SDDOT'S STATEMENT OF COMPLIANCE AND CERTIFIED PAYROLL FORMS

- Question:** Our payroll system is set up on a bi-weekly pay cycle, is that ok?
Answer: No. If you are performing work on a **covered project (Federal-aid contract in excess of \$2,000 OR a Non-Federal-funded SDDOT construction project in the amount of \$100,000 or more)**, the employees will be paid unconditionally and not less often than once a week. There are no exceptions to this requirements in the Davis-Bacon regulations, codified in 29 CFR Parts 3 and 5.
- Question:** Are we required to submit a Payroll to the SDDOT every week, whether our company performed any work or not?
Answer: No. Payrolls are required to be submitted for the weeks that work is performed on the site of covered projects.
- Question:** Our company worked on three different SDDOT projects during one week, do we need to submit a separate Certified Payroll Report for each project?
Answer: Yes, a separate weekly Certified Payroll Report must be submitted for each covered project on which work is performed.
- Question:** Are subcontractors required to send their Payrolls to the prime contractors?
Answer: No. Payrolls are required to be sent directly to the SDDOT Labor Compliance Office in Pierre by the prime and the subcontractors. If a subcontractor is requested to submit copies of their payrolls to a prime contractor, in South Dakota it is optional not mandatory to provide copies of payrolls to primes. Prime contractors will receive timely notices if subcontractors have failed to submit their payrolls to the SDDOT.
- Question:** If our company has employees that work in more than one classification and we list each classification on a separate line on the Certified Payroll, how do we enter the "All Projects" payroll information?
Answer: Only one line of "All Projects" payroll information is required for each employee; please include all hours and earnings related to THIS PROJECT in addition to any other hours and earnings for the week. The "All Projects" information must reconcile to the paychecks.
- Question:** What qualifies as "bona fide" fringe benefits?
Answer: "Bona Fide" Fringes reiterated at 29 CFR 5.29 of the Davis-Bacon Act include contractor or subcontractor making payments or incurring costs for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits.
"**Bona Fide**" Fringe benefits **do not include** benefits required by other Federal, State, or local law; such as Federal Withholding Tax and Social Security Tax. South Dakota State Law requires Workers Compensation Insurance and Unemployment Insurance.
"**Bona Fide**" Fringe benefits **do not include** payments made for travel, subsistence (per diem), or to industry promotion funds. The omission in the Act of any express reference to these payments, which are common in the construction industry, suggests that these payments should not normally be regarded as bona fide fringe benefits under the Act.
- Question:** How do we report the "Total Weekly Fringe" amount when our company pays three types of "bona fide" fringe benefits? (Ex: our company pays \$275 each month toward every employees' single- or family-coverage health insurance, company pays \$.030/hr for dental/vision insurance, and our company matches 2% of gross pay for 401K).
Answer: Each week may have a different value for each employee, depending on the number of hours worked and/or the employees' gross pay. Let's assume that one of your employees works 55 hours @ \$16.00/hour in a week during the month of June, for a total gross pay of \$1,000.00. The company's average number of the total hours (Davis-Bacon and non Davis-Bacon hours) worked by their field employees during the month of June of the prior year was 230 hours. In this example, the "Total Weekly Fringe" amount paid by the employer is **\$102.50** (\$275 insurance/230 prior June average monthly hrs x 55hrs this week=**66.00** weekly health insurance cash value + \$.030x55hrs=**16.50** dental/vision + \$1000x2%=**20.00** 401K employer match).
Note: **IF YOU ARE APPLYING YOUR "BONA FIDE" FRINGE BENEFITS TOWARDS MEETING THE SDDOT'S MINIMUM WAGE RATES, YOU MUST DETERMINE THE HOURLY CASH CREDIT VALUE OF YOUR FRINGES AND MUST PROVIDE THE CREDIT AMOUNTS ON YOUR CERTIFIED PAYROLL REPORT FOR EACH EMPLOYEE.** The hourly credit value may be different for every employee each week, depending on the number of hours worked each week and/or if the premium paid by the employer is not the same for every employee. **In determining the hourly cash equivalent credit for fringe benefit payments, the period of time to be used is the period covered by the contribution. It is imperative that the total hours worked by employees be used as a divisor to determine the rate of contribution per hour since employees may work on both Davis-Bacon covered work and non-government work in the same period.** Using the example above, assume \$16.00 is the minimum wage rate and 35 hours were worked on a covered project and 20 hours were off-site of the covered project, but health insurance is the only employer-paid fringe. The hourly cash equivalent credit for this week is \$1.20 (\$275 monthly insurance/230 prior June average monthly hrs). In this case, \$14.80 could be paid as the hourly cash wage and \$1.20/hr fringe credit applied toward the minimum rate. Overtime pay must be calculated on the full minimum rate of \$16.00, which is \$24.00 minus \$1.20 fringe credit = \$22.80/hr cash wage that must be paid for all overtime project hours worked for this EXAMPLE.