

To: Distribution

Technical Circular, T-01-97

Date: Jan. 17, 1997

Policy:

The Ministry must comply with the Skills Development and Fair Wage Act S.B.C. 1994 c.22, and Regulation (herein referred to as the Fair Wage Act) on any Ministry construction contract or Day Labour Project with an allotted estimated expenditure of \$250,000 or more of Provincial money.

Requirements:

All Major Works Projects with an estimated project expenditure of \$250,000 or more comply with the Fair Wage Act by including the Fair Wage Appendix in every contract document package.

Now, Day Labour Projects will be required to comply with the Fair Wage Act on the following when:

- the Work on the Day Labour Project has a total estimated expenditure of \$250,000 or more; and/or
- the Work on any Day Labour Project is used in connection with a Fair Wage Major Works Contract even if the Day Labour Project has a total estimated expenditure of less than \$250,000.

Day Labour Projects with a total estimated expenditure of less than \$250,000 for the Work are not Fair Wage projects.

Background

A Fair Wage Day Labour Project is defined as any number of contracts for the Project tendered to complete the Work under the Fair Wage Act requirements.

All contracts let in support of Fair Wage Day Labour Project must include Fair Wage contract language (as attached "Appendix FW -Skills Development and Fair Wage" on a Fair Wage Day Labour Project) regardless of the value of any individual contract or the contracting instrument used i.e., Major Works, Minor Works, Local Minor Works/Services, or Operational Services.

The Fair Wage Act applies to each contract required to complete the whole of the Fair Wage Day Labour Project. A project's estimated expenditure includes all costs for the contracted works and services, supplied materials, engineering, on-site supervision, and other related project costs required to complete the Work.

Possible scenarios include the following:

A Day Labour Minor Works contract has an estimated expenditure of \$40,000 and the Work is in preparation for a Fair Wage Major Works contract which will be let soon after the Day Labour contract is completed. This Minor Works contract would require Fair Wage contract language (Appendix FW) in the Contract.

B.) Day Labour Projects - Minor Works Contract, Operational Services, or Local Minor Works/Services Contract must include:

- (i) Appendix FW - Skills Development and Fair Wage for Minor Works Contract, Operational Services, or Local Minor Works/Services Contract; and
- (ii) Schedule of Statutory Declaration and contents -
 - 1.) Statutory Declaration- Contractor - Commencement
 - 2.) Statutory Declaration- Subcontractor - Commencement
 - 3.) Statutory Declaration- Contractor - Holdback release
 - 4.) Exhibit "A" - List of persons performing Work on the Site

For Fair Wage Day Labour contracts such as Minor Works, Operational Service, or Local Minor Works & Services, the Special Provision section must include the following clause:

Compliance with the Skills Development and Fair Wage Act

The Contractor is required to comply with the Skills Development and Fair Wage Act, and Regulation. The Work on this project falls under the requirements of the Skills Development and Fair Wage Act and the Contract Document Package is amended to include the Appendix "FW - Skills and Development and Fair Wage" and Schedule of Statutory Declarations.

Reference Information:

The Skills Development and Fair Wage Act, S.B.C. 1994 c.22, and Regulation.

"Guide to the Application of the Skills Development and Fair Wage Act on MoTH Projects and Contracts" is available from Bruce McAllister, Contract Admin. Branch, Finance and Administration.

Contact:

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Approved by: Director of Construction and Maintenance

INSTRUCTIONS TO CONTRACT ORIGINATOR:

There is a choice to be made regarding what forms are to be inserted into the Schedule of Statutory Declarations. The selection is based on whether the Day Labour Project has been designated a "Non Fair Wage Project" or a "Fair Wage Project" by the District Highways Manager.

If the overall expenditure for the Day Labour Project is **less than \$250,000** it will be a "Non Fair Wage Project"

OR

If the overall expenditure for the Day Labour Project is **greater than \$250,000** it will be a "Fair Wage Project"

Minor Works Projects, or Operational Services Contracts, or Local Minor Works and Services Contracts which have been designated by the District Highways Manager as "Non Fair Wage Projects" must use only the following:

- 1) Schedule of Statutory Declaration
 - a) Minor Works Statutory Declaration (H.394F 97/01)

A Non Fair Wage Contract Document Package **must not include** the "Appendix FW Skills Development and Fair Wage on a Fair Wage Day Labour Project" or the Skills Development and Fair Wage "Schedule of Statutory Declarations" or the Special Provision clause "Compliance with the Skills Development and Fair Wage Act" as part of the contract language.

When a Day Labour Project has been designated as a "Fair Wage Project" by the District Highways Manager and in order to comply with the Skills Development and Fair Wage Act the Contract Document Package **must include:**

- 1) Special Provisions clause:
 - Compliance with the Skills Development and Fair Wage Act
(found in the Policy section under Standard Contract Language)
- 2) Appendix FW - Skills Development and Fair Wage on a Fair Wage Day Labour Project
- 3) Schedule of Statutory Declarations
 - a) Statutory Declaration Contractor-Commencement (H.394A 96/08)
 - b) Statutory Declaration subcontractor-Commencement (H.394B 96/08)
 - c) Statutory Declaration Contractor-Holdback Release (H.394C 96/08)
 - d) Exhibit "A" - List of Persons Performing Work on Site (H.396 96/08)

(Do not include this sheet in the Contract Document Package, instructions only.)

APPENDIX FW

SKILLS DEVELOPMENT AND FAIR WAGE

on a Fair Wage Day Labour Project

for a

**Minor Works Construction Agreement,
Operational Services Contract, or
Local Minor Works/Services Contract**

Contents of Appendix FW

- 1) FW Amendment to the Agreement**
- 2) Skills Development and Fair Wage Regulation**
- 3.) Schedule of Statutory Declarations - Requirements**

FW-Amendment to the Agreement

The Province of British Columbia's Skills Development and Fair Wage Act, S.B.C. 1994, c.22 and attached Regulation applies to this Agreement and to all persons performing Work on the Site. The Ministry of Transportation and Highways has estimated that the total value of expenditures for the whole project to be \$250,000 or more. The Act applies to this contract value even though the value of the Work on this portion of the project may fall under \$250,000,

The Agreement is amended by adding the following Sections:

Section 1.00

1.00 The Contractor will:

- i) comply with the Skills Development and Fair Wage Act, and Regulation; and
- ii) ensure that each Subcontractor agrees to and does in fact comply with the Skills Development and Fair Wage Act and Regulation.

1.01 If, at any time, the Ministry receives a notice from the Director of the Employment Standards Branch, pursuant to the Skills Development and Fair Wage Act, which specifies an amount of money claimed to be payable by the Contractor, or any Subcontractor, the Ministry is, by the terms hereof, irrevocably authorized and directed to do any one or more of the following:

- (i) pay to the Director of Employment Standards Branch; or
- (ii) hold back from any monies payable to the Contractor until a further direction is received from the Director of Employment Standards Branch,

such sums as the Director of the Employment Standards Branch specifies are required to ensure performance of the obligations of the Contractor, or any Subcontractor, under the Skills Development and Fair Wage Act.

1.02 Any payment under 1.01 by the Ministry will be deemed to constitute payment to the Contractor under the Agreement.

FW Amendment to the Agreement (continued)

Section 2.00

2.00 Notwithstanding any other term or condition of this Agreement, the first progress payment is conditional upon the Contractor submitting the following Statutory Declarations to the Ministry Representative:

- (a) a Statutory Declaration in the form "Contractor - Commencement:", including Exhibit "A", as indicated in Schedule of Statutory Declarations to this Agreement, specifying for each person performing Work on the Site:**
 - (i) name and trade qualification or category;**
 - (ii) certificate or apprenticeship number and, for apprentices, the apprenticeship level; and**
 - (iii) compensation paid per hour, and**
- (b) for each Subcontractor Working on the Site, a Statutory Declaration in the form "Subcontractor - Commencement", including Exhibit "A", as indicated in Schedule of Statutory Declaration to this Agreement, specifying for each person performing Work on the Site:**
 - (i) name and trade qualification or category;**
 - (ii) certificate or apprenticeship number and, for apprentices, the apprenticeship level; and**
 - (iii) compensation paid per hour.**

Section 3.00

3.00 For additional or replacement workers, or additional or replacement Subcontractors who commence Work on the Site after submission by the Contractor of the initial Statutory Declarations specified in 2.00 (a) and 2.00 (b), the Contractor will provide to the Ministry Representative, additional Statutory Declarations and Exhibits, as indicated in the Schedule of Statutory Declarations to this Agreement, specifying for each additional or replacement person performing Work on the Site:

- (i) name and trade qualification or category;**
- (ii) certificate or apprenticeship number and, for apprentices, the apprenticeship level; and**
- (iii) compensation paid per hour.**

FW Amendment to the Agreement (continued)

- 3.01 The Statutory Declaration(s) required in 3.00 shall be provided by the Contractor to the Ministry Representative not later than 30 days from the date the additional or replacement workers or additional or replacement Subcontractors commence Work on the Site.

Section 4.00 Final Holdback Release

- 4.00 In addition to other Holdback requirements, the Ministry will release the Holdback within forty (40) days following written acknowledgment by the Contractor to the Ministry it has complied to the following conditions:
- (i) the Contractor has performed all its obligations to date under the Agreement; and
 - (ii) the Contractor, and each Subcontractor, has complied with the Skills Development and Fair Wage Act by submitting a Statutory Declaration to the Ministry in the form as supplied in the Schedule of Statutory Declarations.

Section 5.00

- 5.00 The failure of the Contractor and/or Subcontractor to comply with the Skills Development and Fair Wage Act, and/or the Regulations may result in the Ministry terminating the Agreement and pursuing such remedies as it deems necessary.

STATUTORY DECLARATION

**FOR MINOR WORKS CONTRACTS WITH
SKILLS DEVELOPMENT AND FAIR WAGE ACT
USE THE FOLLOWING:**

- 1. STATUTORY DECLARATION H.394A
CONTRACTOR - COMMENCEMENT**
- 2. STATUTORY DECLARATION H.394B
SUBCONTRACTOR - COMMENCEMENT**
- 3. STATUTORY DECLARATION H.394C
CONTRACTOR - HOLDBACK RELEASE**
- 4. EXHIBIT "A" - LIST OF PERSONS
PERFORMING WORK ON
THE SITE H.396**



STATUTORY DECLARATION

IN THE MATTER OF THE EVIDENCE ACT, 1979 RSBC c.116 s.77 as amended AND IN THE MATTER OF THE SKILLS DEVELOPMENT AND FAIR WAGE ACT AND CERTAIN DISBURSEMENTS TO BE MADE IN CONNECTION WITH THE AGREEMENT

dated the _____ day of _____, 199____ between:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, AS REPRESENTED BY THE MINISTER OF TRANSPORTATION AND HIGHWAYS (the Province)

and:

(the Contractor)

pertaining to Project Number: _____

I, _____, being the duly authorized (PRINT OR TYPE FULL NAME AND POSITION OR TITLE)

representative of and agent for the Contractor on the above Project, solemnly declare and attest that:

- 1. the Contractor has read, understands and agrees to comply with the Skills Development and Fair Wage Act in all matters related to the performance of our obligations to the Province, and
2. the Contractor agrees to co-operate fully with the Ministry of Transportation and Highways and with the Employment Standards Branch in all matters related to the Skills Development and Fair Wage Act, and

Delete either 3 or 3 (a) as appropriate:

- 3. Exhibit "A" is a complete list of all persons employed by the Contractor on the Site of the above Project.
3 (a) Exhibit "A" is a complete list of all persons employed by the Contractor on the Site of the above Project, who have not been disclosed on a previously issued Statutory Declaration pertaining to this Project.

I MAKE THESE SOLEMN DECLARATIONS, conscientiously believing them to be true and knowing that they are of the same legal force and effect as if made under Oath.

DECLARED BEFORE ME AT THE _____ of _____, in the Province of British Columbia, on this _____ day of _____, 199____

Signature of Contractor's Authorized Representative

A Commissioner for taking Affidavits for British Columbia



STATUTORY DECLARATION

IN THE MATTER OF THE EVIDENCE ACT, 1979 RSBC c.116 s.77 as amended AND IN THE MATTER OF THE SKILLS DEVELOPMENT AND FAIR WAGE ACT AND CERTAIN DISBURSEMENTS TO BE MADE IN CONNECTION WITH THE AGREEMENT

dated the _____ day of _____, 199 _____ between:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, AS REPRESENTED BY THE MINISTER OF TRANSPORTATION AND HIGHWAYS (the Province)

and:

(the Contractor)

pertaining to Project Number: _____

I, _____, being the duly authorized representative of and agent for (PRINT OR TYPE FULL NAME AND POSITION OR TITLE)

(PRINT OR TYPE FULL NAME OF SUBCONTRACTOR)

a Subcontractor on the above Project, solemnly declare and attest that:

- 1. the Subcontractor has read, understands and agrees to comply with the Skills Development and Fair Wage Act in all matters related to the performance of our obligations to the Contractor, and
2. the Subcontractor agrees to co-operate fully with the Contractor, the Ministry of Transportation and Highways and with the Employment Standards Branch in all matters related to the Skills Development and Fair Wage Act, and

Delete either 3 or 3 (a) as appropriate:

- 3. Exhibit "A" is a complete list of all persons employed by the Subcontractor on the Site of the above Project.
3 (a) Exhibit "A" is a complete list of all persons employed by the Subcontractor on the Site of the above Project, who have not been disclosed on a previously issued Statutory Declaration pertaining to this Project.

I MAKE THESE SOLEMN DECLARATIONS, conscientiously believing them to be true and knowing that they are of the same legal force and effect as if made under Oath.

DECLARED BEFORE ME AT THE _____)
_____)
of _____, in the _____)
Province of British Columbia, on this _____)
_____ day of _____, 199 _____)

Signature of Subcontractor's Authorized Representative

A Commissioner for taking Affidavits for British Columbia



Ministry of
Transportation
and Highways

STATUTORY DECLARATION

IN THE MATTER OF THE EVIDENCE ACT, 1979 RSBC c.116 s.77 as amended AND IN THE MATTER OF THE SKILLS DEVELOPMENT AND FAIR WAGE ACT AND CERTAIN DISBURSEMENTS TO BE MADE IN CONNECTION WITH THE AGREEMENT

dated the _____ day of _____, 199____ between:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
AS REPRESENTED BY THE MINISTER OF TRANSPORTATION AND HIGHWAYS
(the Province)**

and:

(the Contractor)

pertaining to Project Number: _____

_____, being the duly authorized
(PRINT OR TYPE FULL NAME AND POSITION OR TITLE)

representative of and agent for the Contractor on the above Project, solemnly declare and attest that:

1. the Contractor has complied with the Skills Development and Fair Wage Act in all matters related to the performance of our obligations to the Province, and
2. all of the Contractor's obligations under the Agreement have been performed as of this date.

I MAKE THESE SOLEMN DECLARATIONS, conscientiously believing them to be true and knowing that they are of the same legal force and effect as if made under Oath.

DECLARED BEFORE ME AT THE _____)
_____)
of _____, in the _____)
Province of British Columbia, on this _____)
_____ day of _____, 199____)
_____)

A Commissioner for taking Affidavits for British Columbia

Signature of Contractor's Authorized Representative

STATUTORY DECLARATION

**FOR MINOR WORKS CONTRACTS WITHOUT
SKILLS DEVELOPMENT AND FAIR WAGE ACT
USE:**

STATUTORY DECLARATION H.394F



Ministry of
Transportation
and Highways

STATUTORY DECLARATION

IN THE MATTER OF THE EVIDENCE ACT, 1979 RSBC c.116 s.77 as amended AND IN THE MATTER OF CERTAIN DISBURSEMENTS MADE IN CONNECTION WITH THE AGREEMENT

dated the _____ day of _____, 199__ between:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
AS REPRESENTED BY THE MINISTER OF TRANSPORTATION AND HIGHWAYS
(the Province)**

and:

(the Contractor)

pertaining to Project Number: _____ Contract ID _____

_____, being the duly authorized
(PRINT OR TYPE FULL NAME AND POSITION OR TITLE)

representative of and agent for the Contractor, solemnly declare and attest that all of the Contractor's obligations under the Agreement have been performed as of this date.

I MAKE THIS SOLEMN DECLARATION, conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under Oath.

DECLARED BEFORE ME AT THE _____)

_____)

_____)

of _____, in the _____)

_____)

Province of British Columbia, on this _____)

_____)

_____ day of _____, 199__)

_____)

_____)

_____)

_____)

_____)

A Commissioner for taking Affidavits for British Columbia

Signature of Contractor's Authorized Representative

T-CIRC DISTRIBUTION LIST

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