DIVISION OF BUILDING SAFETY

CONTRACTOR'S BUSINESS AND LAW REFERENCE MANUAL

State of Idaho

7/27/15

This manual has been created by the Division of Building Safety to help you in preparation for the various Contractors' Exams required by Idaho to become a licensed contractor.

INTRODUCTION **6**

CHECKLIST FOR STARTING A BUSINESS **8**

SECTION 1: BUSINESS PLAN OUTLINE **9**

Researching Your Business *9*
What is a Business Plan? *10*
Executive Summary *10*
Management Plan *10*
Marketing Plan *10*
Operations Plan *11*
Financial Plan *11*
Concluding Statement *12*

SECTION 2: DEVELOPING PROFESSIONAL RELATIONSHIPS **13**

Selecting an Accountant *13*
Selecting an Attorney *13*
Selecting an Insurance Agent *14*
Selecting a Bank *14*

SECTION 3: BUSINESS ORGANIZATION **16**

Sole Proprietor *16*
General Partnership *16*
Limited Liability Partnership *16*
Limited Partnership *16*
Limited Liability Company *17*
Corporations *18*
Notes *19*

SECTION 4: LICENSING INFORMATION **20**

Mission *20*
Who needs to be licensed with the Division of Building Safety? *20*
What Happens if I Choose to Work Unlicensed? *20*
License Qualifications *20*

SECTION 5: ACCOUNTING & FINANCE **22**

Accounting *22*
Financial Management *22*
Bookkeeping *22*
Financial Statements *23*
Accounting Methods *24*
Project Accounting *25*
Cash Management *25*
Financial Ratios *26*
Leasing, Purchasing, or Renting Equipment *28*
Depreciation *29*
Balance Sheet Example *31*
Income Statement Example *31*
Cash Flow Statement Example *32*
Small Business Financial Status Checklist *33*
Important Terms and Definitions *35*

SECTION 6: HUMAN RESOURCES **39**

Affordable Care Act (ACA) *39*
Age Discrimination in Employment Act of 1967 (ADEA) *39*
Americans with Disabilities Act (ADA) *40*
Civil Rights Act of 1964 ..... *44*
Civil Rights Act of 1991, Sections 102 and 103 ..... *49*
Consumer Credit Protection Act (CCPA) *49*
Contract Work Hours and Safety Standards Act (CWHSSA) *49*
Copeland "Anti-Kickback" Act *49*
Davis-Bacon and Related Acts (DBRA) *49*
Employee Polygraph Protection Act (EPPA) *50*
Employee Retirement Income Security Act (ERISA) *50*
Equal Pay Act of 1963 (EPA) *50*
Executive Order 11246 ..... *51*
Fair Labor Standards Act (FLSA) *51*
Family and Medical Leave Act (FMLA) *53*
Genetic Information Nondiscrimination Act of 2008 (GINA) *54*
Immigration and Nationality Act (INA) *55*
Immigration Reform and Control Act of 1986 (IRCA) *55*
McNamara-O'Hara Service Contract Act (SCA) *55*
Pregnancy Discrimination Act *56*
Rehabilitation Act of 1973, Section 503 ..... *57*
Uniformed Services Employment and Reemployment Rights Act (USERRA) *57*
The Walsh-Healey Public Contracts Act (PCA) *57*
Idaho Laws *57*
Required Workplace Posters *61*

SECTION 7: INSURANCE **65**

Unemployment Insurance/Compensation *66*
Worker's Compensation Insurance *75*
Alternate Insurance Program *77*
Bonding *77*

SECTION 8: ESTIMATING & BIDDING **79**

Bidding *79*
Estimating *80*
Verifying Accuracy *83*

SECTION 9: CONTRACTS **84**

Contract Legalities *84*
Types of Construction Contracts *85*
Common Parts of Construction Contracts *86*
Breach of Contract *87*

SECTION 10: PROJECT MANAGEMENT IN CONSTRUCTION **88**

Initiation and Estimating *89*
Planning *89*
Executing *95*
Monitoring and Controlling *96*
Closing *98*

SECTION 11: SAFETY **99**

Federal Safety Regulations *99*
Workplace Poster Requirements for Small Business and Other Employers *100*
Recordkeeping *100*
Reporting *101*
Compliance Assistance Available *101*

CONSTRUCTION INDUSTRY DIGEST 106

SECTION 12: TAXES 144

Income Taxes *144*
Other Taxes *145*
Special Requirements for Businesses with Employees *147*
Federal Employment Taxes *147*
Recordkeeping for Tax Preparation *150*
IDAHO *152*

SECTION 13: LIEN LAWS 158

APPENDIX 168

INTRODUCTION

"Only 43 per cent of U.S. construction firms remain in business after four years. Why? Inadequate management, according to the U.S. Small Business Administration. This is surprising because most construction firms are formed by ambitious construction project managers, executives and tradesmen who have excelled at what they have been doing. But as experienced as these entrepreneurs may be, they are not likely prepared to take on the full range of responsibilities forced on them in managing the business of construction in its entirety."[1] Nick B. Ganaway, General Contractor & Consultant, Atlanta, Georgia

According to Dun & Bradstreet's 2012 U.S. Business Trends Annual Report, the industries with the highest failure rates are Construction, Retail, Transportation and Manufacturing.

Why do contractors fail? According to the Surety Information Office, failure is attributed to:

- Accounting Issues
    - Inadequate cost tracking systems
    - Estimating or procurement problems
    - Underinsured
    - Improper accounting practices
- Finance Issues
    - Slow collections
    - Insufficient Capital
    - Low profit margins
    - Poor bidding/underestimated costs
- Management Issues
    - Leadership changes
    - Inexperienced management
    - No continuity plan when key person dies or becomes disabled
    - Changes in scope of business
- Personnel Issues
    - Key staff leave company
    - Character issues
    - Shortage of qualified, skilled workers
- Performance Issues
    - Unrealistic growth
    - Change in type or scope of work
    - Poor project selection
    - Difficult or burdensome contracts
    - Unsettled claims & change orders
- Unrealistic Growth
- Factors Beyond Control
    - Economic Downturn
    - Weather Delays
    - Labor Difficulties
    - Inflation
    - Site Conditions
    - Materials Shortages/High Material prices

[1] "Construction Business Management: A Guide to Contracting for Business Success", Nick B. Ganaway

Some of these items are out of the owner's control; however some are directly related to accounting and financial management.

For more information on starting a business in Idaho please contact:

Idaho SBDC
Boise State University
1910 University Drive, ID 83725
1-800-225-3815 (toll-free)
208-426-1640
infor@idahosbdc.org
http://www.idahosbdc.org/

This manual includes thirteen (13) sections. Each section is based on a topic that is important to the contracting profession. Included in some of the sections are links and information to other agencies that may be helpful in answering your questions regarding starting and operating a business in Idaho. The goal is to provide you with information and resource links so that you are able to find success in your business endeavor.

The information contained in this manual does not in any way supersede business requirements and regulations issued by legal government agencies and are not an inclusive reference. It is advisable to check with the appropriate agencies for the latest requirements.

CHECKLIST FOR STARTING A BUSINESS

- **Research Your Business**
  - ☐ Small Business Administration/Business Information Centers
  - ☐ Idaho Small Business Development Centers
  - ☐ Idaho Department of Commerce
  - ☐ Public and University Libraries
  - ☐ Internet and Other Sources

- **Write a Business Plan**
  - ☐ Introduction
  - ☐ Products/Services
  - ☐ Market/Marketing Strategy
  - ☐ Financial Plans/Management
  - ☐ Operations/Management
  - ☐ Concluding Statement

- **Choose a Method of Organization**
  - ☐ Sole Proprietorship
  - ☐ General Partnership
  - ☐ Limited Liability Partnership
  - ☐ Limited Partnership
  - ☐ Limited Liability Company
  - ☐ Corporation

- **Protect Products, Services, Ideas**
  - ☐ Patents
  - ☐ Copyrights
  - ☐ Trademarks

- **Register with the Secretary of State**
  - ☐ Organizational Documents (i.e., Articles of Incorporation)
  - ☐ Certificate of Assumed Business Name

- **Arrange for Income Taxes**
  - ☐ State
  - ☐ Federal

- **Determine what Other Taxes Apply**
  - ☐ Sales and Use – State
  - ☐ Excise – State and Federal
  - ☐ Property – County Assessor

- **Fulfill Employer Responsibilities**
  - ☐ Employment Taxes
  - ☐ Workers' Compensation Insurance
  - ☐ Immigration Law Verification
  - ☐ Required Posters

- **Permits, Licenses, and Regulations**
  - ☐ Federal
  - ☐ State
  - ☐ County
  - ☐ Local

Section 1: BUSINESS PLAN OUTLINE

Researching Your Business

Research is an integral part of creating a business and is essential to the quality of the business plan. It helps new entrepreneurs understand fundamental aspects of the business prior to beginning operations and answers many important questions, including[2]:

- Why do you want to go into business?
- What skills and experience do you have?
- Who will use your services/products?
- How will you market your business?
- How will they find you?
- Where will they purchase your services/products?
- Who is your competition?
- What are your assets and liabilities?
- What legal business structure will you use?
- How will you manage your business?
- How will your company's business records be maintained?
- What insurance coverage will you need?
- What equipment or supplies will you need?
- How will you pay yourself or your employees?
- What type of financing will you need?
- What are you going to name your business?

The answers to these questions will help you create a focused, well-researched business plan and will help you start on a profitable basis.

Find out more about your trade and how it continues to change align yourself with others in the same industry and consider joining professional trade organizations. Research your chosen trade, the following is a list of some suggested websites:

U.S. Census Bureau
(Statistic of U.S. Businesses)
http://www.census.gov/econ/susb/

SBA Office of Advocacy
(Research on Business)
http://www.sba.gov/advocacy/847

North American Industry Classification System
(Industry Specific Information)
http://www.census.gov/eos/www/naics/

FED STATS
(State Profiles)
http://fedstats.sites.usa.gov

[2] Idaho Department of Commerce, "Starting a Business in Idaho"

The U.S. Small Business Administration (www.sba.gov), the Idaho Small Business Development Centers http://www.idahosbdc.org , and the small business resource centers at the Boise and Spokane Chambers of Commerce are excellent resources for research assistance.

Another free resource is Service Corps of Retired Executives (SCORE), http://www.score.org/.

What is a Business Plan?

"A business plan is a written document describing the nature of the business, the sales and marketing strategy, the financial background, and containing a projected profit and loss statement."[3] A business plan continually changes and will show you where you've been and where you want to go.

Following is a brief summary of typical elements that should be included in a business plan. Detailed information can be found in booklets available from the Idaho Small Development Center offices or at http://www.sba.gov. In general, the best business plans are brief and to the point. Lenders often make financing decisions within 15 minutes of reading a loan application, so the first impression is important. Where possible, use bullet items to convey information instead of paragraphs. [4]

Executive Summary

In one or two pages, write an overview of the business. Define its scope and purpose, describe the industry in which it operates, and outline the management, marketing, operation and financial plans.

- Provide a synopsis of why the business idea will work.
- Show some proprietary edge or advantage.
- State specific financial goals (use break-even analysis, pretax return on investment, profit margin, etc.).
- Address key points concerning management ability, including the track-record of business owners and principals.

Management Plan

Define, in general terms, the overall mission and objectives of the business and outline the general strategy it will follow. Identify where your business will be located and what other resources may be available. Tell how the business is organized, who owns it and list relevant managerial and/or technical experience of the owners and staff. Summarize the business history and any unique or special abilities and proprietary interests. [5]

Marketing Plan

Describe the industry and the local market. Include information on trends, segments, cycles, problems and opportunities in the industry. Identify the customer demand for the product/service. List relevant trade

---

[3] www.entrepreneur.com/ definition of a business plan
[4] Idaho Department of Commerce, "Starting a Business in Idaho"
* Profit margin is the net profit after taxes divided by sales for a given 12-month period.
[5] Idaho Department of Commerce, "Starting a Business in Idaho"

associations and other potential sources of information and support. Identify pertinent regulations, licensing issues or zoning requirements.

Include information about competitors. Outline the services and products of the business and what makes them different/unique. List key environmental factors in the market and identify specific problems and opportunities. Analyze demographic and economic trends in the market. Explain how the services and products will be advertised and marketed, also explain any promotional strategies. Describe what methods will be used for attracting and retaining customers, what your pricing will be and if credit will be extended to your customers.

Operations Plan

Summarize how the business will be managed on a day-to-day basis. Identify computer and software needs and the accounting and management information feedback system to be developed. Discuss position, responsibilities, compensation, incentives and any other benefits for owners, managers and employees. If your business is going to require employees list your hiring requirements and any personnel procedures. List insurance requirements, lease or rental agreements, and any other items that would relevant to the operation of the business. Supply a list of professionals that will assist with the development and maintenance of the business (accountant, attorney, banker, insurance agent, etc.).

In addition to the above discuss what equipment will be required to provide services and/or produce products. This should include small tools to large equipment and/or vehicles.

Financial Plan

Prepare projected financial statements. Include an income statement, balance sheet, cash flow statement, source and application of funds statement and loan proposal outline. (See Finances and Accounting Sections for more information.) Explain the amount of capital required to start, where it will come from, and how it will be repaid (if borrowed). Detail the assets that can be used for collateral and what its current market value is. List how the funds will be spent (e.g., purchasing equipment or tools, from whom, what price, etc.)

Develop a monthly operating budget.

In conclusion of this section include the accounting methods used, who will maintain the accounting records and how they will be kept.

Supporting Documents

Assemble spreadsheets, resumes, personal financial statements, tax returns, marketing studies, organizational documents, agreements, photographs, diagrams, job descriptions, technical drawings, blueprints, operations and technical manuals, product information sheets, price lists and similar documents which support and explain the business plan. [6]

[6] Idaho Department of Commerce, “Starting a Business in Idaho”

Concluding Statement

Summarize business goals and objectives.

Section 2: DEVELOPING PROFESSIONAL RELATIONSHIPS

Contracting with competent business service professionals can mean the difference between success and failure for many new businesses.

Selecting an Accountant

The Idaho State Board of Accountancy licenses and regulates Certified Public Accountants (CPA) and Licensed Public Accountants (LPA). These professionals act as advisors to individuals and businesses on a wide range of financial related matters. CPAs and LPAs provide audit, review and compilation services, tax assistance, management advisory services and estate and personal financial planning. A CPA or an LPA can help a business by providing the following services:

- Prepare tax returns and recommend tax-planning strategies;
- Review a company's accounting system and recommend improvements;
- Consult on business problems and ways to improve the use of a client's resources;
- Assist in the design and installation of data processing management information systems;
- Help clients apply for loans and credit by gathering and preparing lender required information.

Not all accountants provide the same services. Select your professional accounting advisor carefully. A long-term working relationship between you and your CPA or LPA can help you take an informed, consistent approach to financial and business issues and help you meet your financial goals.

An important item to consider is the determination of fees. CPAs and LPAs normally base their fees on the type of services you require and the complexity of your work. Talk frankly about fees. Often the accountant and the client will sign an engagement letter spelling out fees, scope of work and other details in advance of the work performed to avoid misunderstandings. An accountant can be found in several ways. Seek recommendations from your lawyer, banker and other business associates. Before choosing a CPA or LPA, call the Board of Accountancy or visit www.isba.idaho.gov. They have a list of all licensed accountants on the site.

Idaho State Board of Accountancy
P.O. Box 83720
3101 W. Main St., Suite 210
Boise, ID 83702-2099
(208) 334-2490, fax: (208) 334-2615
www.isba.idaho.gov
isba@isba.idaho.gov

Selecting an Attorney

Many attorneys provide advice about organizing a new business. If possible, select one experienced in business matters. Ask your banker for the names of law firms or individual attorneys. Ask other business owners which attorneys they use. If their business is well run, it is likely that they used care in selecting a law firm. Be sure to ask the attorney about fees in the initial interview and ask if the firm represents

businesses similar to yours. A reputable attorney will welcome an open discussion about fees. Generally you can expect the attorney to base fees on a fixed hourly rate. If you feel uncomfortable about the attorney's fees or qualifications, feel free to select another attorney. Often attorneys do not charge for an initial interview, but some do. Another way to find a competent attorney is to use the Idaho State Bar Lawyer Referral Service. Contact:

Idaho State Bar
P.O. Box 895
Boise, ID 83701
(208) 334-4500, fax: (208) 334-4515
https://isb.idaho.gov/

The service is open Monday through Friday from 8 a.m. to 5 p.m.

Selecting an Insurance Agent

The Idaho Department of Insurance is the regulatory agency that regulates the business of insurance in Idaho. Their website provides links for consumers on various topics in regards to insurance.

Idaho Department of Insurance
700 West State Street
P.O. Box 83720
Boise, ID 83720-0043
208-334-4250
www.doi.idaho.gov

While shopping for insurance a good place to start is online, many companies offer free online quotes and will refer you to a local agent. Be wary of any agent who only wants to sell one product without taking the time to listen to you. Shop around! Also, talk to associates and get referrals.

Questions to ask:

- What type of insurance does your business need and/or is required to have?
- Price?
- How long have they been in business?
- How can they help your business?

Selecting a Bank

It is important for every business owner to find a bank that will contribute to the success of their business. Listed below are some important things to consider when selecting a bank.

- What do you need the bank for?
    - What type of checking?
    - Do they provide special loan programs for small-businesses, including SBA loan programs and other government-guaranteed or agency loans?
    - Do they provide guidance on qualifying for loan that best meets your needs?
    - Can they assist you with the cash management needs of your business?
    - Do they offer investment products?

    - Can they assist you with finding financial information on your industry?
- What type of relationship do you want with your bank?
    - The right banker will be someone that understands the needs of emerging and growing businesses. They will be interested in your business goals and will help you achieve them.
    - Look for a complementary personality in a banker, someone with whom you can relate.
- What type of bank do you need?
    - There are laws and regulations that govern the activities of banks, savings and loans, credit unions and investment firms – however not all financial institutions are the same. Each institution establishes its own policies for:
        - Types of products and services
        - Criteria for qualifying for a loan
        - Minimum balances
        - Interest rates
        - Various bank charges
        - How long have they been in business?

Consider all of the items above and take the time to shop around. Think of this decision as a long-term investment.

Section 3: BUSINESS ORGANIZATION

In Idaho, a business may operate as a Sole Proprietorship, a General Partnership, a Limited Liability Partnership, a :Limited Partnership, a Limited Liability Company or a Corporation.

Each of these forms of organization has significant tax and legal consequences, and a qualified tax and/or legal advisor should be consulted. For legal description see Idaho Statutes, Title 53 Partnership.

Sole Proprietor

A Sole Proprietorship is a business owned and controlled by one person who is solely liable for its obligations.

General Partnership

A General Partnership is a partnership in which all partners participate fully in running the business and share equally in profits and losses (though the partners' monetary contributions may vary). [7]

General Partnerships, if they do not operate under the full names of each owner, must file a *Certificate of Assumed Business Name* with the Secretary of State.

Limited Liability Partnership

A Limited-Liability Partnership (L.L.P.) is a partnership in which a partner is not liable for a negligent act committed by another partner or by an employee not under the partner's supervision.

- All states have enacted statutes that allow a business (typically a law firm or accounting firm) to register as this type of partnership.[8]

Individuals or existing general partnerships may elect to become Limited Liability Partnerships (L.L.P.) by filing the *Statement of Qualification of Limited Liability Partnership* form with the Idaho Secretary of State.

Limited Partnership

A Limited Partnership (L.P.) is a partnership composed of one or more persons who control the business and are personally liable for the partnership's debts (called general partners), and one or more persons who contribute capital and share profits but who cannot manage the business and are liable only for the amount of their contribution (called limited partners).

- The chief purpose of a Limited Partnership (L.P.) is to enable persons to invest their money in a business without taking an active part in managing the business, and without risking more than

[7] "general partnership." ©Black's Law Dictionary. West Group, a Thompson business, 2004
[8] "limited liability partnership." ©Black's Law Dictionary. West Group, a Thompson business, 2004

> the sum originally contributed, while securing the cooperation of others who have ability and integrity but insufficient money.[9]

An existing Limited Partnership organized outside the State of Idaho and entering the state to transact business in Idaho, must file two original copies of the *Application of Registration of Foreign Limited Partnership* with the Idaho Secretary of State. A certificate from the jurisdiction where the partnership is organized that proves the existence of the Limited Partnership must accompany these forms. A new Limited Partnership created in Idaho must file duplicate originals of Idaho's *Certificate of Limited Partnership* with the Secretary of State

Limited Liability Company

A Limited Liability Company (L.L.C.) is a company –statutorily authorized in certain states – that is characterized by limited liability, management by members or managers, and limitations on ownership transfer.

Limited Liability Companies (L.L.C.) are another available form of business in Idaho. When properly structured, these entities have the liability limitations of a corporation with the tax attributes of a partnership.

- The name of the company must include one of the following: "LLC, Limited Liability Company, Ltd., PLLC, professional limited liability company."
- The company must have a unique name. This may require some businesses to choose a new name or re-file their paperwork to include LLC, etc. in their name.

Information about the changes can be found at http://www.sos.idaho.gov/corp/corindex.htm and *The Idaho Limited Liability Company Act* is available from the Secretary of State.

Limited Liability Companies from Other States

To operate in Idaho, a limited liability company organized in another state must register with the Secretary of State by submitting an original signed form titled *Application for Registration as a Foreign Limited Liability Company* together with a duplicate copy.

New Limited Liability Companies

To attain limited liability status under the *Idaho Act*, a company must register with the Secretary of State by submitting duplicate copies of its *Articles of Organization* on a form provided by that office. As with corporations, limited liability company membership interests may be subject to state and federal securities laws. Information on the issuance of membership interests can be obtained by contacting the U.S. Securities and Exchange Commission and the Idaho Department of Finance at the addresses listed toward the end of this section.

Professional Limited Liability Companies

A Professional Limited Liability Company is an LLC whose members offer a professional service, such as legal, medical or dental services. The name of the company must include the words "Professional Limited Company," "PLLC," or "Professional Limited Liability Company." The form needed to establish a PLLC can be found at http://www.sos.idaho.gov/corp/llcform.htm

[9] "limited partnership." ©Black's Law Dictionary. West Group, a Thompson business, 2004

Corporations

A corporation is an entity (usually a business) having authority under law to act as a single person distinct from the shareholders who own it and having rights to issue stock and exist indefinitely; a group or succession of persons established in accordance with legal rules into a legal or juristic person that has legal personality distinct from the natural persons who make it up, exists indefinitely apart from them, and has the legal powers that its constitution gives it.[10]

S Corporation (S Corp)

A S corporation (S Corp) is a type of US corporate structure in which the firm's income is passed through its stockholders (shareholders) in proportion of their investment, and taxed at personal income tax rates. S corporations ('S' stands for 'small') can have only one type of stock and only a limited number of stockholders. Also called subchapter S corporation.

C Corporation (C Corp)

US business organization structure that provides several non-tax benefits (such as limited liability for the owners) and is popular as a staging base for raising large amounts of investment capital by going public. Unlike in a S corporation, however, the entity's income is taxed twice first as corporate income, then as shareholder (dividend) income.

Existing Foreign Corporations

To operate in Idaho, a corporation organized in another jurisdiction must submit two original copies of an *Application for Certificate of Authority* to the Secretary of State along with a certificate of corporate status issued by the state where incorporated.

New Corporations

Incorporating a business or nonprofit corporation in Idaho requires filing duplicate originals of Articles of Incorporation with the Secretary of State. The Secretary of State's office no longer issues certificates for corporate filings. Evidence of filing is established by the latest time stamp of the Secretary of State's office, along with the file number (preceded by the letter "C"). Incorporation requirements are set out in the *Idaho Business Corporation Act* and the *Idaho Nonprofit Corporation Act*, available from the Secretary of State

If a company wishes to issue stock or raise money from the public, it must usually notify the Idaho Department of Finance and the U.S. Securities and Exchange Commission.

If, for instance, you wish to run advertisements offering an investment or partnership opportunity in your company or solicit investors by any other means, first contact the Idaho Department of Finance.

The term "securities" refers to more than just stocks or bonds and includes types of debts (i.e., a note or a loan) or equity used to raise money for businesses. Contact the Department of Finance to determine if you

[10] "corporation." ©Black's Law Dictionary. West Group, a Thompson business, 2004

need to register or file for an exemption. In some cases, no filing is necessary. For more information on securities contact:

U.S. Securities and Exchange Commission
San Francisco Regional Office
44 Montgomery St., Suite 2600
San Francisco, CA 94104
(415) 705-2500
www.sec.gov
sanfrancisco@sec.gov

Idaho Department of Finance
Securities Bureau
P.O. Box 83720
Boise, ID 83720-0031
(208) 332-8000, fax: (208) 332-8099
www.finance.idaho.gov
finance@finance.idaho.gov

The Idaho Credit Code requires that notice be given to, or a license obtained from, the Department of Finance for all types of business that extend, arrange or take assignment of consumer credit, or engage in collections or credit counseling. Consumer credit is defined as credit extended for personal, family, or household use. The requirements are set forth in the Idaho Credit Code, available from the Department of Finance. Contact the Department of Finance, Consumer Finance Bureau at (208) 332-8002 for more information.

Professional Service Corporation

The corporation consists of individuals engaged in a limited number of professions, such as medical, dental, legal, landscape architects, architects or veterinarians. A list of qualifying businesses can be obtained from the Secretary of State's office. The forms needed to create a professional service corporation can be found at http://www.sos.idaho.gov/corp/corpform.htm. The name of the business must end with the words "chartered," "professional association," "professional corporation," or with the abbreviations "PA," "PC," or "Chtd."

Notes

Except for sole proprietors using the owner's true name and general partnerships using the full name of each owner, all businesses must file the appropriate notice or documents with the Idaho Secretary of State. To obtain forms, check the status of a business entity or check for name availability, visit www.sos.idaho.gov.

More information on business filings is available from the Secretary of State:

Idaho Secretary of State
Commercial Division-Business Entities
P.O. Box 83720
Boise, ID 83720-0080
(208) 334-2300, fax: (208) 334-2080
www.sos.idaho.gov

Section 4: LICENSING INFORMATION

Mission

The mission of the Division of Building Safety (DBS) is to safeguard the citizens of Idaho through responsible administration of building and construction-related safety and licensure standards while promoting a positive business climate.

The Division of Building Safety is host to seven regulatory boards within the Executive Office of the Governor. They are:

- Idaho Building Code Board
- Idaho Electrical Board
- Idaho Heating, Ventilation and Air Conditioning (HVAC) Board
- Idaho Plumbing Board
- Manufactured Housing Board
- Modular Building Advisory Board
- Public Works Contractors License Board

The Division's Industrial Safety Program performs annual safety inspections of public schools and state-owned buildings and monitors the safety certification of elevators and escalators statewide. DBS also operates Idaho's Logging Safety Program.

Who needs to be licensed with the Division of Building Safety?

Idaho statutes require that any individual or company performing Electrical, HVAC, Manufactured Housing, Plumbing, and Public Works work in the state obtain the required licenses.

What Happens if I Choose to Work Unlicensed?

Persons who perform electrical, HVAC, manufactured housing, plumbing, or public works work without a required license or who violate other codes or rules are subject to civil penalties.
These are general clarifications for the types of licenses offered in Idaho. Please visit our website at dbs.idaho.gov or contact our office for further information.

License Qualifications

In order to qualify for a license, a candidate must:

1. Complete and submit the appropriate application(s) with all required supporting documents including proof of experience and/or education, within the specified time period;
2. Submit the applicable non-refundable fee(s);
3. Obtain approval from the State; and,
4. Pass the appropriate examination.

Information specific to your occupation may be found in the Rules, Statutes, and Legislation section or at

http://dbs.idaho.gov/rules/index.html

License applications are available online, or by contacting:

State of Idaho Division of Building Safety
1090 East Watertower Street
Suite 150
Meridian, ID 83642
(800) 955-3044
Fax: (877) 810-2840
http://dbs.idaho.gov

Contractors may also have to register with the Idaho Bureau of Occupational Licenses (IBOL):

Idaho Bureau of Occupational License
700 West State Street
Boise, ID 83702
(208) 334-3233
Fax: (208) 334-3945
Email: ibol@ibol.idaho.gov
www.ibol.idaho.gov

Mailing Address:
PO Box 83720
Boise, ID 83720-0063

Section 5: ACCOUNTING & FINANCE

Accounting

Accounting is defined as the bookkeeping methods involved in making a financial record of business transactions and in the preparation of statements concerning the assets, liabilities, and operating results of a business.[11]

Financial Management

Financial Management is the process of managing the financial resources, including accounting and financial reporting, budgeting, collecting accounts receivable, risk management, and insurance for a business.[12]

The financial manager of a company is normally the owner/contractor. Responsibilities of the owner/contractor include:

- Making financial decisions
- Managing cash flow
- Managing cost and profits
- Accounting for financial resources

Generally a business owner will hire an accountant to assist with the financial management of the company.

Bookkeeping

Bookkeeping is one task that many small business owners neglect. Bookkeeping is the activity of recording the money received and spent by a person, business, or organization. To succeed in business, a business must have a system of bookkeeping, as a way to track the company's financial data. Bookkeeping is the first step in the accounting process. Some companies use a manual ledger or journal, some use specialized software like Intuit's QuickBooks, and others hire a professional bookkeeper. Keeping balanced books will not only ensure that you know where your money is going, but it is important for the following reasons:

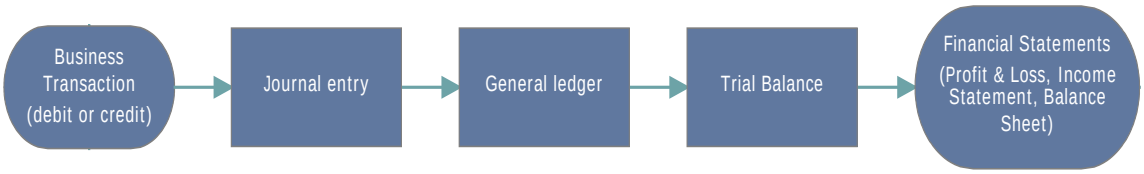
- Banks, lenders, and investors will want to see accurate and complete financial data before investing or lending money.
- Taxes. Having accurate records will aid in the preparation of taxes by the business owner or by the accountant.

The following is a simplified diagram of the bookkeeping process:

---

[11] "accounting." Webster's II Dictionary, 3rd Edition, ©2005 Houghton Mifflin Company

[12] "financial management." Definition, www.smallbusinessnotes.com



1. Every entry in the bookkeeping process is based on a business transaction, which is typically a check or an invoice.
2. A journal is a book/place for recording daily transactions, especially in double entry bookkeeping, using a formulaic style to ensure a transaction's correct entry in a ledger. At the end of an accounting period all journal entries are totaled and transferred to the general ledger, this is called "posting".
3. The general ledger is a book or computer record showing all the financial transactions of a business.
4. A trial balance is the act of totaling debit balances and credit balances to confirm that total debits equal total credits.
5. The final step is preparing the financial statements from the trial balance.

Financial Statements

The preparation of financial statements is necessary for evaluating and determining financial condition of a company. Financial statements are also a requirement of bankers, lenders, insurance, surety, equipment suppliers, some customers, and a few licensing agencies. The basic financial statements are the balance sheet, income statement, and cash flow statement.

Balance Sheet

The balance sheet is a statement showing the assets and liabilities of a company or institution at a particular time.

$$\text{Assets} = \text{liabilities} + \text{equity}$$

The listing of all assets and a total of those accounts should equal the listing of the liabilities and net worth account total. The two sides should "balance". The balance sheet provides the liquidity status of a business; its ability to meet short-term debt obligations.

Income Statement

The income statement is a financial statement showing the profit or loss sustained by a company during a particular period, including all items of income and expenditure. Income statements are limited in that they report only the business' profit or loss activity during a reporting period; not the overall financial state of the business.

Cash Flow Statement

A cash flow statement is a summary of the actual or anticipated incomings and outgoings of cash in a firm over an accounting period. It illustrates how the net profits of the business have been utilized and the basis of funds received. Cash flow statements can be the most valuable financial report for a contractor because of the importance of cash control.

Accounting Methods

An accurate financial picture allows the business owner to make sound financial decisions, without this a company will fail. The most common accounting methods used in the construction industry for recording revenue and expenses are the cash and accrual methods.

Cash Accounting

Cash accounting is an accounting method where receipts are recorded during the period they are received, and the expenses in the period in which they are actually paid. The cash method will reveal only monies received and paid – not earnings. Cash-basis accounting does not meet GAAP (generally accepted accounting principles).

There are two situations in which the cash method of accounting is limited:

1. It is not permitted if the business is a corporation or a partnership with a C corporation as a partner, and if the business' average gross receipts exceed $5 million.
2. The business' total purchases of "merchandise" for the year are "substantial" compared to its gross income for the year.

Accrual Method

Accrual method is an accounting method that measures the performance and position of a company by recognizing economic events regardless of when cash transactions occur. The general idea is that economic events are recognized by matching revenues to expenses (the matching principle) at the time in which the transaction occurs rather than when payment is made (or received). This method allows the current cash inflows/outflows to give a more accurate picture of a company's financial condition. The accrual method of accounting is GAAP compliant.

The following is an example of cash vs. accrual methods of accounting.

XYZ Construction's accounting period is January through December.

- In May they sign a contract for $100,000, and receive a $50,000 partial payment.
- The contract is completed in June, and they receive the remaining $50,000.
- Total material costs are $60,000, with $30,000 paid in May, and $30,000 paid in October.
- Total labor costs are $30,000, with $20,000 paid prior to June 1st.
- Total payroll taxes are $6,000, with deposits made in June and July.

XYZ Construction Income Statement May 31, 2011

	Accrual	**Cash**
Income	100,000	50,000
Material Costs	-60,000	-30,000
Labor Costs	-30,000	-20,000
Payroll Taxes	-6,000	0
Profit - Net	**4,000**	**0**

Different results are shown above and both results were created with the same information. However, the accrual method gives a more accurate financial representation of XYZ Construction's contract.

Project Accounting

Project accounting (job cost accounting) is the practice of creating financial reports specifically designed to track the financial progress of projects, which can be used by managers to aid project management. In a project management environment costs (both direct and indirect) and revenues are allocated to projects, which may be subdivided into a work breakdown structure, and grouped together into project hierarchies. Project accounting permits reporting at any such level that has been defined, and often allows comparison with historical as well as current budgets.

Completed Contract Method

The completed contract method (revenue recognition method) is for a contract that is completed over more than one accounting period. It is employed specially where the total cost of performing the contract, and the amount of profit to be realized, are largely uncertain. In this method, the total contract revenue and the corresponding cost of performing the contract are recognized only in the accounting period in which the contract is completed.

The Tax Reform Acts of 1986 and 1987 severely limit, but do not prohibit the use of the completed contract method for long term contracts. Also the completed contract method can only be applied to projects completed within two years and used by contractors whose average annual income is less than $10 million over the past three years.

Percentage of Completion Method

The percentage of completion method (revenue recognition method) is for a contract completed over more than one accounting period. In this method, a portion of the total contract revenue and a portion of the estimated contract costs are recorded in each accounting period. It is an appropriate method where the total cost of performing the contract and the realizable profit are, within reason, predictable and determinable.

$$\text{Cumulative revenue} = \frac{\text{Cost incurred to date x Contract price}}{\text{Total estimated cost}}$$

Each contract should be recorded separately for financial statement purposes. This approach is preferred over the completed contract method because it does a better job of matching revenue and expenses in the period of benefit. It is more realistic and levels out the earnings. The percentage of completion method should be used only when reliable estimates of the degree of completion are possible.

Cash Management

One of the major causes of small business failure is cash flow, this occurs when small businesses run out of cash to pay their bills.

Cash is the currency and coins on hand, bank balances, and negotiable money orders and checks. Cash is not an inventory, or an account receivable, and it is not property. A cash balance is required to pay employees, suppliers, rent, and other bills as they become due.

Cash flow is the measure of a company's financial health. Cash flow equals cash receipts minus cash payments over a given period of time; or equivalently, net profit plus amounts charged off for depreciation, depletion, and amortization.

The outflow of cash includes checks written each month to pay salaries, suppliers, and creditors. The inflow of cash includes the cash a business received from customers, lenders, and investors.

If the cash inflow exceeds the outflow, a company has a positive cash flow. If the cash outflow exceeds the inflow, a company has a negative cash flow. Negative cash flow can result in the failure of a small business.

A cash flow statement is a summary of a company's cash flow over a given period of time.

Financial Ratios

Financial ratios show relationships between different aspects of a small business's operations. They involve the comparison of elements from a balance sheet or income statement, and are created with particular points of interest in mind. Financial ratio can provide small business owners and managers with a valuable tool to measure the business' financial and earning position and determining risk.

Liquidity Ratios

A liquidity ratio is the ratio measuring ability to pay debts: the proportion of total assets that are readily convertible into cash. There are two types of liquidity ratios, current ratio or quick ratio.

1. Current ratio is the ratio of current assets to current liabilities. The higher the ratio the better a company can meet its short term obligations.

   $$\text{Current Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

   Example: $123,450 (current assets) ÷ 23, 450 (current liabilities) = 5.26 current ratio

2. A quick ratio (acid-test ratio) is a measure of a company's liquidity calculated by dividing current assets minus inventories by current liabilities.

   $$\text{Quick Ratio} = \frac{\text{Current assets - Inventories}}{\text{Current Liabilities}}$$

   Example: $123, 450 (current assets) – $2,000 (inventory) = $121,450 (quick assets) ÷ $34,560 (current liabilities) = 3.51 quick ratio

Efficiency Ratios

Efficiency ratio (asset management ratio) is a ratio typically used to analyze how well a company uses its assets and liabilities internally. Efficiency ratios can calculate the turnover of receivables, the repayment of liabilities, the quantity and usage of equity and the general use of inventory and machinery. Some common efficiency ratios are accounts receivable turnover, fixed asset turnover, sales to inventory, working capital, accounts payable to sales, and stock turnover ratio. These ratios are meaningful when compared to peers in the same industry and can identify businesses that are better managed relative to others. These ratios are also important because an improvement in ratios usually translates to an improved profitability.

1. Accounts receivable turnover ratio is an accounting measure used to quantify a business' effectiveness in extending credit as well as collecting debts. The receivable turnover ratio is an activity ratio, measuring how efficiently a business uses its assets. A high ratio implies either that a company operates on a cash basis or that its extension of credit and collection of accounts receivable is efficient. A low ratio implies the company should re-assess its credit policies in order to ensure the timely collection of imparted credit.

   $$\text{Accounts Receivable Turnover} = \frac{\text{Net Credit Sales}}{\text{Average Accounts Receivable}}$$

2. Fixed asset turnover ratio is a financial ratio of net sales to fixed assets. The fixed asset turnover ratio measures a company's ability to generate net sales from fixed asset investments – specifically property, plant, and equipment – net depreciation. A higher fixed asset turnover ratio shows that the company has been more effective in using the investment in fixed assets to generate revenues.

   $$\text{Fixed Asset Turnover} = \frac{\text{Net Sales}}{\text{Net Property, Plan, and Equipment}}$$

3. Inventory ratio is a ratio showing how many times a company's inventory is sold and replaced over a period of time. This ratio should be compared to industry averages. A low turnover implies poor sales and a high ratio implies either strong sales or ineffective buying. High inventory levels are damaging because they represent an investment with a rate of return of zero.

   $$\text{Inventory Turnover} = \frac{\text{Sales}}{\text{Inventory}}$$

4. Working capital ratio is a measure of both a company's efficiency and its short-term financial health. Positive working capital means that a company is able to pay off its short-term liabilities. If the ratio is less than one (1) then the company has negative working capital, if the ratio is too high, then the company may have too much inventory or they are not investing their excess cash. The ratio is best between 1.2 and 2.0.

   $$\text{Working capital} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

Leverage or Safety Ratios

A leverage ratio is any ratio used to calculate the financial leverage of a company to get an idea of the company's methods of financing or to measure its ability to meet financial obligations. There are several different ratios that accomplish this including, debt, equity, assets, and interest expenses.

1. Debt to equity ratio is a measure of a company's financial leverage calculated by dividing its total liabilities by stockholders' equity. It indicates what proportion of equity and debt the company is using to finance its assets. A high debt/equity ratio generally means that a company has been aggressive in financing its growth with debt. This can result in volatile earnings as a result of the additional interest expense.

   $$\text{Debt/Equity Ratio} = \frac{\text{Total Liabilities}}{\text{Equity}}$$

2. Interest coverage ratio is a ratio used to determine how easily a company can pay interest on outstanding debt. The interest coverage ratio is calculated by dividing a company's earnings before interest and taxes (EBIT) of one period by the company's interest expenses of the same period. The lower the ratio, the more the company is burdened by debt expense. When a company's interest coverage ratio is 1.5 or lower, its ability to meet interest expenses may be questionable.

   $$\text{Interest Coverage Ratio} = \frac{\text{EBIT}}{\text{Interest Expense}}$$

Profitability Ratios

Profitability ratios are a class of financial metrics that are used to assess a company's ability to generate earnings as compared to its expenses and other relevant costs incurred during a specific period of time. For most of these ratios, having a higher value relative to a competitor's ratio or the same ratio from a previous period is indicative that the company is doing well. Some examples of profitability ratios are profit margin, return on assets, and return on equity.

1. Profit margin is a ratio of profitability calculated as net income divided by revenues, or net profits divided by sales. It measures how much out of every dollar of sales a company actually keeps in earnings. A higher profit margin indicates a more profitable company.

   $$\text{Profit Margin Ratio} = \frac{\text{Net Income}}{\text{Revenues}}$$

2. Return on Equity Ratio (ROE) is the amount of net income returned as a percentage of shareholders equity. Return on Equity measures a company's profitability by revealing how much profit a company generates with the money shareholders have invested.

   $$\text{Return on Equity Ratio} = \frac{\text{Net Income}}{\text{Shareholder's Equity}}$$

3. Return on Assets (ROA) is a ratio that indicates what return a company is generating on the firm's investments/assets. The ratio is important in helping companies decide on whether or not to initiate a new project. The basis of this ratio is that if a company is going to start a project they expect to earn a return on it, ROA is the return they would receive. If the ROA is above the rate that the company borrows at then the project should be accepted, if not then it should be rejected.

   $$\text{Return on Assets Ratio} = \frac{\text{Net Income}}{\text{Total Assets}}$$

Leasing, Purchasing, or Renting Equipment

Equipment, along with its maintenance, repair and parts, is a major expense for most businesses. Leasing equipment can be a better option for business owners who have limited capital or who need equipment that must be upgraded every few years, while purchasing equipment can be a better option for equipment that has a long, usable life. A thorough investigation of the options should be done for each piece of equipment prior to buying, leasing, or renting.

Lease

A lease is a contract renting land, buildings, equipment, etc., to another; a contract or instrument conveying property to another for a specified period or for a period determinable at the will of either lessor or lessee in consideration of rent or other compensation. Leasing equipment has some good advantages for businesses, such as a locked-in not flexible rate, long term agreement, less cash required upfront, repair and maintenance, and tax benefits.

Rent

Rent is defined as a payment or series of payments made by a lessee to an owner in return for the use of machinery, equipment, etc. Renting differs from leasing in terms of length of the contract. Equipment can be rented by the hour, half day, or whole day, etc. A business owner can decide how long to keep the equipment and when to return it (with no fee for returning it early). This option is best for short-term projects or as a replacement for equipment that is under repair. Rental companies are typically responsible for maintenance and repair.

Purchase

Purchase is to buy something using money or its equivalent. Purchasing is still the most common method of obtaining equipment (new or used) in the construction industry. The main advantage of buying equipment is that you own it. Buying is considered a capital investment and has several tax advantages. Prior to purchasing equipment the following must be considered: present and future needs, the size, capacity and the price of the equipment, its reliability, durability, warranties, service and parts availability, and the expenses surrounding its usage.

When a business acquires equipment, it should attempt to recover some of the equipment costs; not only by using it, but by the remaining value of its specified useful life and salvage value. An accounting method for charging equipment costs to a project is to assign a "rental rate" for each piece of equipment. This rate includes all costs associated with the equipment except having it transported to and from the job site and the expense of the employee operating the equipment. As the project moves forward, an equipment charge is made against the project, whose sum is calculated by multiplying the equipment rental rate by the usage time (hourly, weekly, monthly, etc.). At the same time, the same amount is credited to the appropriate ledger account for the equipment; the same account where all of the expense items (including maintenance and repair) are recorded for that piece of equipment.

Ex.: Rental rate on Machine "A" is $50.00/hour is charged to Project X for time used on that project.
$50.00 x 5 hours used = $250.00 charge to Project X
$250.00 credit to the ledger account for the Machine "A"

Depreciation

Depreciation is a noncash expense that reduces the value of an asset as a result of wear and tear, age, or obsolescence. Most assets lose their value over time and must be replaced once the end of their useful life is reached. There are several accounting methods that are used in order to write off an asset's depreciation cost over the period of its useful life. Because it is a non-cash expense, depreciation lowers the company's reported earnings while increasing cash flow. To be depreciable, the property must meet all the following requirements:

- Property You Own
- Property Used in Your Business or Income-Producing Activity

- Property Having a Determinable Useful Life
- Property Lasting More Than One Year

Property used only for personal activities cannot be depreciated. If an asset such as a home or motor vehicle has both personal and business use, only the business portion of its cost may be depreciated.

When Does Depreciation Begin and End?

Depreciation begins when the property is "placed in service". This means it is ready and available for a specific use, whether in a business activity, an income-producing activity, a tax-exempt activity, or a personal activity. Even if you are not using the property, it is in service when it is ready and available for its specific use.

The basis is the amount that will be deducted once the asset is fully depreciated. It may be the cost of the asset or another amount, depending on how and when it was acquired. Most assets are depreciated according to the Modified Accelerated Cost Recovery System. IRS Publication 946 provides detailed information on depreciation and the methods used to depreciate.

Modified Accelerated Cost Recovery System (MACRS)

The Modified Accelerated Cost Recovery System (MACRS) is the current tax depreciation system in the United States. Under this system, the capitalized cost (basis) of tangible property is recovered over a specified life by annual deductions for depreciation. The lives are specified broadly in the Internal Revenue Code. The Internal Revenue Service (IRS) publishes detailed tables of lives by classes of assets. The deduction for depreciation is computed using one of two methods (declining balance or straight line) at the discretion of the taxpayer, with limitations. See IRS Publication 946 for a guide to MACRS.

Straight-line Depreciation

Straight-line depreciation is a way of calculating depreciation of an asset for tax or accounting purposes on the basis that it will lose an equal amount of value each year of its life. The annual depreciation is calculated by subtracting the salvage value of the asset from the purchase price, and then dividing this number by the estimated useful life of the asset.

$$\text{Straight-line depreciation} = \frac{\text{purchase price} - \text{salvage value}}{\text{Years of useful life}}$$

IRS Section 179 Deduction (2014)

Section 179 of the IRS tax code allows businesses to deduct the full purchase price of qualifying equipment and/or software purchased or financed during the tax year. That means that if you buy (or lease) a piece of qualifying equipment, you can deduct the FULL PURCHASE PRICE from your gross income. It's an incentive created by the U.S. Government to encourage businesses to buy equipment and invest in themselves.

Simplified view of Section 179 beginning in 2014:

- 2014 Deduction Limit - $500,000 (up from $250k previously). Good on new and used equipment, including new software.
- 2014 Limit on equipment purchases - $2 Million Dollars (up from $800k previously)

- "Bonus" Depreciation – 100% (taken after the $500k deduction limit is reached.). Note, bonus depreciation is only for new equipment. This can also be taken by businesses that exceed $2 million in capital equipment purchases.

For more information go to: http://www.irs.gov/publications/p946/ch02.html

Balance Sheet Example

Assets		**Liabilities and Owners' Equity**	
Cash	$ 6,600.00	**Liabilities**	
Accounts Receivable	$ 6,200.00	Notes Payable	$ 30,000.00
Tools and equipment	$ 25,000.00	Accounts Payable	
		Total liabilities	$ 30,000.00
		Owners' equity	
		Capital Stock	$ 7,000.00
		Retained Earnings	$ 800.00
		Total owners' equity	$ 7,800.00

Income Statement Example

XYZ Business
Income Statement
For Month Ended June 30, 20xx

Revenues		
Net Sales		$ 5,000.00
Rental Revenue		$ 1,000.00
Total Revenue		**$ 6,000.00**
Expenses		
Wages expense	$ 1,500.00	
Cost of good sold	$ 1,000.00	
Utilities expense	$ 250.00	
Supplies expense	$ 250.00	
Total Operating expenses		$ 3,000.00
Net Income/Loss		***$ 3,000.00***

Cash Flow Statement Example

Cash flows from (used in) operating activities		
Cash receipts from customers	9,500.00	
Cash paid to suppliers and employees	-2,000.00	
Cash generated from operations (sum)	**7,500.00**	
Interest paid	-2,000.00	
Income taxes paid	-3,000.00	
Net cash flows from operating activities		2,500.00
Cash flows from (used in) investing activities		
Proceeds from the sale of equipment	7,500.00	
Dividends received	3,000.00	
Net cash flows from investing activities		10,500.00
Cash flows from (used in) financing activities		
Dividends paid	-2,500.00	
Net cash flows used in financing activities		-2,500.00
Net increase in cash and cash equivalents		10,500.00
Cash and cash equivalents, beginning of year		1,000.00
Cash and cash equivalents, end of year		11,500.00

Small Business Financial Status Checklist

Keeping your financial records up to date won't be a problem if you do what is necessary on a regular basis. Though particular accounting needs may vary somewhat, the following checklist will help you understand the most common tasks required to maintain accurate accounting records.

Daily:

1. Total all cash on hand.
2. Record income. Enter a summary of sales and cash receipts in an income ledger.
3. Record all payments made by cash or check.
4. Enter deposits in your business checkbook to keep the balance current.
5. Record inventory, adding any new items received.

Weekly:

1. Review accounts receivable, and take action to collect from slow payers.
2. Review accounts payable, remembering to take advantage of discounts.
3. Prepare payroll. (Records should include name and address of employee, Social Security number, number of exemptions, date ending the pay period, hours worked, rate of pay, total wages, deductions, net pay, and check number.)
4. Deduct items sold from inventory, adjusting records to reflect the week's sales.

Monthly:

1. Balance checkbook. Reconcile your checking account records to your bank statements to ensure that both sets of records are in agreement.
2. Total all ledgers. Compute monthly totals for sales, expenses, and payroll.
3. Make tax deposits. Report and remit withheld employee income taxes and FICA taxes. Also file and remit any federal or state income taxes due.
4. Age accounts receivable. Update your unpaid accounts, listing them by length of time on the books, i.e., 30, 60, or 90 days. Use this list to discover which accounts require extra collection attention.
5. Review inventory. Check inventory levels to determine usage rate. Add to replenish or adjust by eliminating excess items.
6. Reconcile petty cash. Make sure the actual cash, plus the total of the paid-out receipts for expenses from petty cash, are equal to the starting balance. Replenish if necessary.

Quarterly:

1. File estimated tax returns. File federal and state estimated income taxes.
2. Remit sales taxes. If required, fill out a state sales tax report and send it in along with a check for the amount of sales tax you've collected. You may be required to remit sales taxes monthly or annually instead of quarterly, depending on the amounts involved.
3. Prepare income statement. This will reflect the sales, expenses and profit for that quarter and for the year to date. Many larger businesses generate this report (as well as the balance sheet and cash flow statement below) monthly as well as quarterly.

4. Prepare balance sheet. This will indicate the financial position of the business at the end of the quarter.
5. Prepare cash flow statement. This will reflect the cash activity and ending position for the quarter.

Annually:

1. Total all ledgers. Compute yearly totals for sales, expenses, and payroll.
2. Prepare income statement. This will reflect the sales, expenses and profit for the year.
3. Prepare balance sheet. This will indicate the financial position of the business at the end of the year.
4. Prepare cash flow statement. This will indicate the cash activity and ending position of the business at the end of the year.
5. Send out 1099 forms. Complete and mail a 1099 form (Statement for Recipients of Miscellaneous Income) to each independent contractor who earned more than $600 from you in the previous year.
6. Send out W-2 forms. Complete and mail a W-2 form to each employee who worked for you in the previous year.
7. Assemble tax papers. Pull together all the documentation you're going to need for filing your income taxes.
8. Meet with your accountant. Turn over your tax documentation and set up a time to discuss your financial condition and tax strategy for the coming year.
9. Set up new books. Prepare for the coming year by setting up your ledgers.

Important Terms and Definitions

Accelerated depreciation: the depreciation of assets for tax purposes over a period that is less than their normal life, or depreciation in larger amounts in early years than in later years.

Accounting equation: a fundamental balance sheet equation, such as liabilities + net worth = assets

Accounts receivable: a record that shows how much is owed to a company by customers who have purchased goods or services on credit; a record of money owed

Accounts receivable aging: is a periodic report that categorizes a company's accounts receivable according to the length of time an invoice has been outstanding. Accounts receivable aging is a critical management tool as well as an analytic tool that helps determine the financial health of a company's customers, and therefore the health of their business.

Accrual method of accounting: an accounting method that measures the performance and position of a company by recognizing economic events regardless of when cash transactions occur. The general idea is that economic events are recognized by matching revenues to expenses (the matching principle) at the time in which the transaction occurs rather than when payment is made (or received). This method allows the current cash inflows/outflows to give a more accurate picture of a company's financial condition.

Accumulated depreciation: The cumulative depreciation of an asset up to a single point in its life. Regardless of the method used to calculate it, the depreciation of an asset during a single period is added to the previous period's accumulated depreciation to get the current accumulated depreciation.

Allowance for bad debts: a valuation account used to estimate the portion of a bank's loan portfolio that will ultimately be uncollectible. When a loan goes bad, the asset is removed from the books and the allowance for bad debt is charged for the book value of the loan.

Assets: the items on a balance sheet that constitute the total value of an organization. (cash, equipment, accounts receivable)

Balance sheet: is a statement showing the assets and liabilities of a company or institution at a particular time

Capital: material wealth in the form of money or property; money that can be used to produce further wealth; net worth, the assets of a business that remain after its debts and other liabilities are paid or deducted.

Cash discount: an incentive that a seller to a buyer in return for paying a bill owed before the scheduled due date. The seller will usually reduce the amount owed by the buyer by a small percentage or a set dollar amount. If used properly, cash discounts improve the days-sales-outstanding aspect of a business's cash conversion cycle.

Cash accounting: is an accounting method where receipts are recorded during the period they are received, and the expenses in the period in which they are actually paid.

Cash flow statement: is a summary of the actual or anticipated incomings and outgoings of cash in a firm over an accounting period (month, quarter, year). It answers the questions Where the money came (will come) from? And where it went (will go)? Cash flow statements assess the amount, timing, and

predictability of cash-inflows and cash-outflows, and are used as the basis for budgeting and business-planning.

Chart of accounts: a chart explaining the numerical codes identifying the ledger accounts in an accounting system.

Closing: at the end of an accounting cycle, the books will need to be closed to start a new cycle. Adjusting journal entries will need to be done to record any amounts accrued for the period that are not yet listed and to remove any deferred items. Closing journal entries will need to be done to rid the ledger of revenue and expense accounts, attributing the amounts to income and retained earnings.

Costs of goods sold: (COGS) is the direct cost attributable to the production of the goods sold by a company. This amount includes the cost of the materials used in creating the good along with the direct labor costs used to produce the good. It excludes indirect expenses such as distribution costs and sales force costs. COGS appear on the income statement and can be deducted from revenue to calculate a company's gross margin.

Credit memo (note): A form or letter sent by a seller to a buyer, stating that a certain amount has been credited to the buyer's account. A credit note is issued in various situations to correct a mistake, such as when (1) an invoice amount is overstated, (2) correct discount rate is not applied, (3) or goods do not meet the buyer's specifications and are returned.

Credits: in bookkeeping means to enter upon the credit side of an account; give credit for or to. Credits increase liabilities and equity and decrease assets.

Current assets: available cash and other assets that could be converted to cash within a year.

Current liabilities: business liabilities that are due to be cleared before the end of the financial year.

Debits: an entry in bookkeeping showing a debt or expense in a record of accounts; money taken out of an account.

Depreciation: the decrease in value of an item over time; the amount or percentage by which something decreases in value over time, usually one year.

Double-entry accounting (bookkeeping): system of keeping accounting records that recognizes the dual nature (source and disposition) of every financial transaction expressed by the basic accounting equation (Assets = Liabilities + Owners' Equity). In this system, every transaction is entered twice in the account books first, to record a change in the assets' side (called a debit) and second, to mirror that change in the equities' side (called a credit). If all entries are recorded accurately, the account books will balance because the total of debit entries will equal the total credit entries.

Drawing account: is the name of the account (in the account books of a sole-proprietorship or partnership firm) which records all monies taken out of the business by the owner or partners.

Equity: (1) Ownership interest or claim of a holder of common stock (ordinary shares) and some types of preferred stock (preference shares) of a company. On a balance sheet, equity represents funds contributed by the owners (stockholders) plus retained earnings or minus the accumulated losses. (2) Net worth of a person or company computed by subtracting total liabilities from the total assets. In case of cooperatives, equity represents members' investment plus retained earnings or minus losses.

Expense accounts: (1) a benefit given by an employer that entitles an employee to be repaid for some or all of the expenses incurred in the course of his or her employment. (2) the amount of an employee's expenses during a particular period, or a record of this.

Fixed asset: an asset of a business that is central to its operation and is not traded (usually used in the plural)

General ledger: a book or computer record showing all the financial transactions of a business.

Income accounts: an account used to record a business's income. A business that has several product lines will have an income account for each line.

Income statement: a financial statement showing the profit or loss sustained by a company during a particular period, including all items of income and expenditure

Inventory: a record of a business's merchandise on hand, the value of work in progress, and work completed but not sold.

Journal: a book for recording daily transactions, especially in double entry bookkeeping, using a formulaic style to ensure their correct entry in a ledger.

Liabilities: all debts and other financial obligations that appear on a balance sheet

Long-term liability: obligation payable in goods, services, or cash at a future period more than 12 months away from today or the date of balance sheet. A firm must disclose long-term liabilities in its balance sheet with their interest rates (or other charges) and date of maturity.

Net income: is what remains after subtracting all the costs (namely, business, depreciation, interest, and taxes) from a company's revenues. Net income is sometimes called the bottom line, earning, or net profit.

Post: to transfer financial data from a journal of original entry into a ledger book.

Prepaid expense: an accounting term signifying money paid for goods or services upfront. A prepaid expense is considered an asset on the balance sheet. As the goods and services are delivered they are recorded on the income statement. An example of a prepaid expense is insurance, since the policy holder pays money upfront to cover the risk of possible damaging event occurring in the future.

Prepaid income: Money received in advance of either providing the service or good to the customer. In the case of paying taxes on this type of income, they are usually paid the year received, but a business owner can defer this type of income to the next tax year or the year in which it is actually earned/collected. (unearned revenue)

Profit and loss statement (income statement): a summary of a management's performance as reflected in the profitability (of lack of it) of an organization over a certain period. It itemizes the revenues and expenses of past that led to the current profit or loss, and indicates what may be done to improve the results. An income statement depicts what happened over a month, quarter, or year. It is based on a fundamental accounting equation (Income = Revenue – Expenses) and shows the rate at which the owners' equity is changing for better or worse. Along with balance sheet and cash flow statement it forms the basic set of financial information required to manage an organization. Also called earnings report, operating statement, or "P&L".

Retained earnings: Earnings not paid out as dividends but instead reinvested in the core business or used to pay off debt. (earned surplus, accumulated earnings, unappropriated profit) Shown as an "equity" account on the balance sheet.

Trial balance: the act of totaling debit balances and credit balances to confirm that total debits equal total credits.

Unearned revenue: see "prepaid income"

Section 6: HUMAN RESOURCES

Small and large employers must be aware of the employment laws that affect them, what those laws are and what they mean, and how to protect both the business and the employees. As an employer you will want to avoid risk and litigation, while building a reputation as an employer who is committed to employees and their rights.

For help in building your human resource policy and employee handbook please contact a Human Resource professional. Human Resource professionals can be found in the telephone book and on the internet. Please see the Appendix for a chart of which employers are affected by certain labor laws.

Standard Labor Laws

The United States Department of Labor's (DOL) mission is to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. By following this mission, the DOL oversees a variety of Federal labor laws that cover items from wages, overtime, child labor standards, worker's compensation, safety, contracts, and leave time.

The following is a non-inclusive list of standard labor laws regulated by the Department of Labor and its appropriate divisions and the Equal Employment Opportunity Commission. For a more complete listing please visit the website of DOL at http://www.dol.gov or the EEOC at http://www.eeoc.gov.

Affordable Care Act (ACA)

The Patient Protection and Affordable Care Act (PPACA), known as the Affordable Care Act (ACA), was signed into law in 2010. The ACA was enacted to increase the quality and affordability of health insurance. The law requires insurance companies to cover all applicants.

The ACA contains benefits and responsibilities for employers. The size and structure of your workforce – small, large, or part of a group – helps determine what applies to you, the employer. However, if you have no employees, the ADA does not apply to you.

The ACA does not require employers to provide health insurance for their employees. However, employers with 50 or more full-time employees that do not offer insurance, offer insurance that is unaffordable, or offer coverage that does not meet a minimum value standard will be subject to fees beginning January 1, 2014.

For more information regarding the ACA visit:
http://www.hhs.gov/healthcare/rights/law/index.html

Age Discrimination in Employment Act of 1967 (ADEA)

This law protects people who are 40 or older from discrimination because of age. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit**.** The ADEA

applies to employers of 20 or more employees and only apply to employers in industries affecting interstate commerce.

Age Discrimination

Age discrimination involves treating someone (an applicant or employee) less favorably because of his age.

The Age Discrimination in Employment Act (ADEA) only forbids age discrimination against people who are age 40 or older. It does not protect workers under the age of 40, although some states do have laws that protect younger workers from age discrimination.

It is not illegal for an employer or other covered entity to favor an older worker over a younger one, even if both workers are age 40 or older.

Discrimination can occur when the victim and the person who inflicted the discrimination are both over 40.

Age Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Age Discrimination & Harassment

It is unlawful to harass a person because of his or her age.

Harassment can include, for example, offensive remarks about a person's age. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).
The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Age Discrimination & Employment Policies/Practices

An employment policy or practice that applies to everyone, regardless of age, can be illegal if it has a negative impact on applicants or employees age 40 or older and is not based on a reasonable factor other than age.

Americans with Disabilities Act (ADA)

This law makes it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business. This act generally applies to employers having 15 or more workers.

Disability Discrimination

Disability discrimination occurs when an employer or other entity covered by the Americans with Disabilities Act, as amended, or the Rehabilitation Act, as amended, treats a qualified individual with a disability who is an employee or applicant unfavorably because she has a disability.

Disability discrimination also occurs when a covered employer or other entity treats an applicant or employee less favorably because she has a history of a disability (such as cancer that is controlled or in remission) or because she is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if she does not have such an impairment).

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer ("undue hardship").

The law also protects people from discrimination based on their relationship with a person with a disability (even if they do not themselves have a disability). For example, it is illegal to discriminate against an employee because her husband has a disability.

Note: Federal employees and applicants are covered by the Rehabilitation Act of 1973, instead of the Americans with Disabilities Act. The protections are mostly the same.

Disability Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Disability Discrimination & Harassment

It is illegal to harass an applicant or employee because he has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).

Harassment can include, for example, offensive remarks about a person's disability. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Disability Discrimination & Reasonable Accommodation

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer.

A reasonable accommodation is any change in the work environment (or in the way things are usually done) to help a person with a disability apply for a job, perform the essential functions of a job, or enjoy the benefits and privileges of employment.

Reasonable accommodation might include, for example, making the workplace accessible for wheelchair users or providing a reader or interpreter for someone who is blind or hearing impaired.

A resource available to employers for information regarding accommodations contact:

Job Accommodation Network (JAN)
http://askjan.org
(800) 526-7234 Voice
(877) 781-9403 TTY

While the federal anti-discrimination laws don't require an employer to accommodate an employee who must care for a disabled family member, the Family and Medical Leave Act (FMLA) may require an employer to take such steps. The Department of Labor enforces the FMLA. For more information, call: 1-866-487-9243.

Disability Discrimination & Reasonable Accommodation & Undue Hardship

An employer doesn't have to provide an accommodation if doing so would cause undue hardship to the employer.

Undue hardship means that the accommodation would be too difficult or too expensive to provide, in light of the employer's size, financial resources, and the needs of the business. An employer may not refuse to provide an accommodation just because it involves some cost. An employer does not have to provide the exact accommodation the employee or job applicant wants. If more than one accommodation works, the employer may choose which one to provide.

Definition of Disability

Not everyone with a medical condition is protected by the law. In order to be protected, a person must be qualified for the job and have a disability as defined by the law.

A person can show that he or she has a disability in one of three ways:

- A person may be disabled if he or she has a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing, or learning). Mental conditions could include anxiety disorders, attention deficit disorder, bipolar disorder, etc. For more information on what may be considered a disability contact the EEOC (Equal Employment Opportunity Commission) or JAN (Job Accommodation Network).
- A person may be disabled if he or she has a history of a disability (such as cancer that is in remission).
- A person may be disabled if he is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).

Disability & Medical Exams during Employment Application & Interview Stage

The law places strict limits on employers when it comes to asking job applicants to answer medical questions, take a medical exam, or identify a disability.

For example, an employer may not ask a job applicant to answer medical questions or take a medical exam before extending a job offer. An employer also may not ask job applicants if they have a disability

(or about the nature of an obvious disability). An employer may ask job applicants whether they can perform the job and how they would perform the job, with or without a reasonable accommodation.

Disability & Medical Exams after a Job Offer for Employment

After a job is offered to an applicant, the law allows an employer to condition the job offer on the applicant answering certain medical questions or successfully passing a medical exam, but only if all new employees in the same type of job have to answer the questions or take the exam.

Disability & Medical Exams for Persons Who Have Started Working as Employees

Once a person is hired and has started work, an employer generally can only ask medical questions or require a medical exam if the employer needs medical documentation to support an employee's request for an accommodation or if the employer believes that an employee is not able to perform a job successfully or safely because of a medical condition.

The law also requires that employers keep all medical records and information confidential and in separate medical files.

Available Resources

In addition to a variety of formal guidance documents, EEOC has developed a wide range of fact sheets, question & answer documents, and other publications to help employees and employers understand the complex issues surrounding disability discrimination.

- Pandemic Preparedness in the Workplace and the Americans with Disabilities Act
- Your Employment Rights as an Individual With a Disability
- Job Applicants and the ADA
- Understanding Your Employment Rights Under the ADA: A Guide for Veterans
- Questions and Answers: Promoting Employment of Individuals with Disabilities in the Federal Workforce
- The Family and Medical Leave Act, the ADA, and Title VII of the Civil Rights Act of 1964
- The ADA: A Primer for Small Business
- Your Responsibilities as an Employer
- Small Employers and Reasonable Accommodation
- Work At Home/Telework as a Reasonable Accommodation
- Applying Performance And Conduct Standards To Employees With Disabilities
- Obtaining and Using Employee Medical Information as Part of Emergency Evacuation Procedures
- Veterans and the ADA: A Guide for Employers
- The Mental Health Provider's Role in a Client's Request for a Reasonable Accommodation at Work
- Employer Best Practices for Workers with Caregiving Responsibilities
- Reasonable Accommodations for Attorneys with Disabilities
- How to Comply with the Americans with Disabilities Act: A Guide for Restaurants and Other Food Service Employers
- Final Report on Best Practices For the Employment of People with Disabilities In State Government

- *ABCs* of Schedule A Documents

The ADA Amendments Act

- Final Regulations Implementing the ADAAA
- Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008
- Questions and Answers for Small Businesses: The Final Rule Implementing the ADA Amendments Act of 2008
- Fact Sheet on the EEOC's Final Regulations Implementing the ADAAA

The Questions and Answers Series

- Health Care Workers and the Americans with Disabilities Act
- Deafness and Hearing Impairments in the Workplace and the Americans with Disabilities Act
- Blindness and Vision Impairments in the Workplace and the ADA
- The Americans with Disabilities Act's Association Provision
- Diabetes in the Workplace and the ADA
- Epilepsy in the Workplace and the ADA
- Persons with Intellectual Disabilities in the Workplace and the ADA
- Cancer in the Workplace and the ADA
- The Application of Title VII and the ADA to Applicants or Employees Who Experience Domestic or Dating Violence, Sexual Assault, or Stalking

Mediation and the ADA

- Questions and Answers for Mediation Providers: Mediation and the Americans with Disabilities Act (ADA)
- Questions and Answers for Parties to Mediation: Mediation and the Americans with Disabilities Act (ADA)

Civil Rights Act of 1964

Title VII of the Civil Rights Act of 1964 (Title VII)

This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.

National Origin Discrimination

National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).

National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same national origin.

National Origin Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

National Origin & Harassment

It is unlawful to harass a person because of his or her national origin. Harassment can include, for example, offensive or derogatory remarks about a person's national origin, accent or ethnicity. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

National Origin & Employment Policies/Practices

The law makes it illegal for an employer or other covered entity to use an employment policy or practice that applies to everyone, regardless of national origin, if it has a negative impact on people of a certain national origin and is not job-related or necessary to the operation of the business.

An employer can only require an employee to speak fluent English if fluency in English is necessary to perform the job effectively. An "English-only rule", which requires employees to speak only English on the job, is only allowed if it is needed to ensure the safe or efficient operation of the employer's business and is put in place for nondiscriminatory reasons.

An employer may not base an employment decision on an employee's foreign accent, unless the accent seriously interferes with the employee's job performance.

Citizenship Discrimination & Workplace Laws

The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for an employer to discriminate with respect to hiring, firing, or recruitment or referral for a fee, based upon an individual's citizenship or immigration status. The law prohibits employers from hiring only U.S. citizens or lawful permanent residents unless required to do so by law, regulation or government contract. Employers may not refuse to accept lawful documentation that establishes the employment eligibility of an employee, or demand additional documentation beyond what is legally required, when verifying employment eligibility (i.e., completing the Department of Homeland Security (DHS) Form I-9), based on the employee's national origin or citizenship status. It is the employee's choice which of the acceptable Form I-9 documents to show to verify employment eligibility.

IRCA also prohibits retaliation against individuals for asserting their rights under the Act, or for filing

Race/Color Discrimination

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

Race/color discrimination also can involve treating someone unfavorably because the person is married to (or associated with) a person of a certain race or color or because of a person's connection with a race-based organization or group, or an organization or group that is generally associated with people of a certain color.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same race or color.

Race/Color Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Race/Color Discrimination & Harassment

It is unlawful to harass a person because of that person's race or color.

Harassment can include, for example, racial slurs, offensive or derogatory remarks about a person's race or color, or the display of racially-offensive symbols. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Race/Color Discrimination & Employment Policies/Practices

An employment policy or practice that applies to everyone, regardless of race or color, can be illegal if it has a negative impact on the employment of people of a particular race or color and is not job-related and necessary to the operation of the business. For example, a "no-beard" employment policy that applies to all workers without regard to race may still be unlawful if it is not job-related and has a negative impact on the employment of African-American men (who have a predisposition to a skin condition that causes severe shaving bumps a charge or assisting in an investigation or proceeding under IRCA.

Religious Discrimination

Religious discrimination involves treating a person (an applicant or employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs.

Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion or because of his or her connection with a religious organization or group.

Religious Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Religious Discrimination & Harassment

It is illegal to harass a person because of his or her religion.

Harassment can include, for example, offensive remarks about a person's religious beliefs or practices. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal

when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Religious Discrimination & Reasonable Accommodation

The law requires an employer or other covered entity to reasonably accommodate an employee's religious beliefs or practices, unless doing so would cause more than a minimal burden on the operations of the employer's business. This means an employer may be required to make reasonable adjustments to the work environment that will allow an employee to practice his or her religion.

Examples of some common religious accommodations include flexible scheduling, voluntary shift substitutions or swaps, job reassignments, and modifications to workplace policies or practices.

Religious Accommodation/Dress & Grooming Policies

Unless it would be an undue hardship on the employer's operation of its business, an employer must reasonably accommodate an employee's religious beliefs or practices. This applies not only to schedule changes or leave for religious observances, but also to such things as dress or grooming practices that an employee has for religious reasons. These might include, for example, wearing particular head coverings or other religious dress (such as a Jewish yarmulke or a Muslim headscarf), or wearing certain hairstyles or facial hair (such as Rastafarian dreadlocks or Sikh uncut hair and beard). It also includes an employee's observance of a religious prohibition against wearing certain garments (such as pants or miniskirts).

When an employee or applicant needs a dress or grooming accommodation for religious reasons, he should notify the employer that he needs such an accommodation for religious reasons. If the employer reasonably needs more information, the employer and the employee should engage in an interactive process to discuss the request. If it would not pose an undue hardship, the employer must grant the accommodation.

Religious Discrimination & Reasonable Accommodation & Undue Hardship

An employer does not have to accommodate an employee's religious beliefs or practices if doing so would cause undue hardship to the employer. An accommodation may cause undue hardship if it is costly, compromises workplace safety, decreases workplace efficiency, infringes on the rights of other employees, or requires other employees to do more than their share of potentially hazardous or burdensome work**.**

Religious Discrimination & Employment Policies/Practices

An employee cannot be forced to participate (or not participate) in a religious activity as a condition of employment.

Retaliation

All of the laws we enforce make it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).

For example, it is illegal for an employer to refuse to promote an employee because she filed a charge of discrimination with the EEOC, even if EEOC later determined no discrimination occurred.

Retaliation & Work Situations

The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Sex-Based Discrimination

Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex.

Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex.

Sex Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

Sex Discrimination Harassment

It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Sex Discrimination & Employment Policies/Practices

An employment policy or practice that applies to everyone, regardless of sex, can be illegal if it has a negative impact on the employment of people of a certain sex and is not job-related or necessary to the operation of the business.

Sexual Harassment

It is unlawful to harass a person (an applicant or employee) because of that person's sex. Harassment can include "sexual harassment" or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general.

Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Civil Rights Act of 1991, Sections 102 and 103

Among other things, this law amends Title VII and the ADA to permit jury trials and compensatory and punitive damage awards in intentional discrimination cases.

Consumer Credit Protection Act (CCPA)

The federal wage garnishment law, Consumer Credit Protection Act (CCPA), protects employees from discharge by their employers because their wages have been garnished for any one debt, and limits the amount of an employee's earnings that may be garnished in any one week. This act requires a full disclosure to the employee or candidate prior to accessing his/her credit report. The Wage and Hour Division (WHD) of the DOL administers this Act.

Contract Work Hours and Safety Standards Act (CWHSSA)

The Contract Work Hours and Safety Standards Act (CWHSSA) applies to federal service contracts and federal and federally assisted construction contracts over $100,000. It requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. This Act also prohibits unsanitary, hazardous, or dangerous work conditions on federal and federally and assisted construction projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements.

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act generally prohibits federal contractors or subcontractors engaged in building construction or repair from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract and requires such contractors and subcontractors to submit weekly statements of compliance.

Davis-Bacon and Related Acts (DBRA)

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia construction contracts or federally assisted contracts in excess of $2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

In addition to the Davis Bacon Act itself, Congress added Davis-Bacon prevailing wage provisions to approximately 60 laws—"related Acts"—under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. (Examples of the related Acts are the Federal-Aid Highway Acts, the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act.) Generally, the application of prevailing wage requirements to projects receiving federal assistance under any particular "related" Act depends on the provisions of that law.

The U.S. Department of Labor (DOL) has oversight responsibilities to assure coordination of administration and consistency of enforcement of the labor standards provisions of the Davis Bacon and Related Acts. Under this authority, DOL has issued regulations establishing standards and procedures for the administration and enforcement of the Davis-Bacon labor standards provisions. Federal contracting agencies have day-to-day responsibility for administration and enforcement of the Davis-Bacon labor standards provisions in covered contracts for which they are responsible or to which they provide federal assistance under laws they administer.
Within DOL, the Wage and Hour Division (WHD) is responsible for administration and enforcement of the DBRA.

Employee Polygraph Protection Act (EPPA)

The Employee Polygraph Protection Act of 1988 (EPPA) generally prevents employers from using lie detector tests, either for pre-employment screening or during the course of employment, with certain exemptions. Employers generally may not require or request any employee or job applicant to take a lie detector test, or discharge, discipline, or discriminate against an employee or job applicant for refusing to take a test or for exercising other rights under the Act. In addition, employers are required to display the EPPA poster in the workplace for their employees.

The Employment Standards Administration's Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the EPPA.

Employee Retirement Income Security Act (ERISA)

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for pension plans in private industry. ERISA does not require any employer to establish a pension plan. It only requires that those who establish plans must meet certain minimum standards. The law generally does not specify how much money a participant must be paid as a benefit. ERISA requires plans to regularly provide participants with information about the plan including information about plan features and funding; sets minimum standards for participation, vesting, benefit accrual and funding; requires accountability of plan fiduciaries; and gives participants the right to sue for benefits and breaches of fiduciary duty.

ERISA also guarantees payment of certain benefits through the Pension Benefit Guaranty Corporation, a federally chartered corporation, if a defined plan is terminated.

The Department of Labor’s (DOL) Employee Benefits Security Administration (EBSA) enforces ERISA.

Equal Pay Act of 1963 (EPA)

This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Equal Pay/Compensation Discrimination

The Equal Pay Act requires that men and women in the same workplace be given equal pay for equal work. The jobs need not be identical, but they must be substantially equal. Job content (not job titles) determines whether jobs are substantially equal. All forms of pay are covered by this law, including salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits. If there is an inequality in wages between men and women, employers may not reduce the wages of either sex to equalize their pay.

An individual alleging a violation of the EPA may go directly to court and is not required to file an EEOC charge beforehand. The time limit for filing an EPA charge with the EEOC and the time limit for going to court are the same: within two years of the alleged unlawful compensation practice or, in the case of a willful violation, within three years. The filing of an EEOC charge under the EPA does not extend the time frame for going to court.

Equal Pay/Compensation and Sex Discrimination

Title VII also makes it illegal to discriminate based on sex in pay and benefits. Therefore, someone who has an Equal Pay Act claim may also have a claim under Title VII.

Other Types of Discrimination

Title VII, the ADEA, and the ADA prohibit compensation discrimination on the basis of race, color, religion, sex, national origin, age, or disability. Unlike the EPA, there is no requirement under Title VII, the ADEA, or the ADA that the jobs must be substantially equal

Executive Order 11246

The Executive Order 11246 (E.O 11246) prohibits federal contractors and subcontractors and federally-assisted construction contractors and subcontractors that generally have contracts that exceed $10,000 from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. It also requires covered contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

The E.O. 11246 is administered by the Office of Federal Contract Compliance Programs (OFCCP) within the U.S. Department of Labor.

Fair Labor Standards Act (FLSA)

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.

The Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) administers and enforces the FLSA with respect to private employment, State and local government employment, and Federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority. The FLSA is enforced by the U.S. Office of Personnel Management for employees of other Executive Branch agencies, and by the U.S. Congress for covered employees of the Legislative Branch.

Special rules apply to State and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off instead of cash overtime pay.

Overtime Pay

The federal overtime provisions are contained in the FLSA. Unless exempt, employees covered by the Act must receive overtime pay for hours worked over forty (40) in a workweek at a rate not less than time and one-half (1-1/2) their regular rates of pay. There is no limit in the Act on the number of hours employees aged 16 or older may work in any workweek. The Act does not require overtime pay for work on Saturdays, Sundays, holidays, or regular days of rest, unless overtime is worked on such days. For information regarding exemptions please refer to the Department of Labor at www.dol.gov.

The Act applies on a workweek basis. An employee’s workweek is a fixed and regularly recurring period of 168 hours – seven consecutive 24-hour periods. It need not coincide with the calendar week, but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted. Normally, overtime pay earned in a particular workweek must be paid on the regular pay day for the pay period in which the wages were earned.

Exemptions

Some employees are exempt from the overtime pay provisions, some from both the minimum wage and overtime pay provisions and some from the child labor provisions of the Fair Labor Standards Act (FLSA). Exemptions are narrowly construed against the employer asserting them. Consequently, employers and employees should always closely check the exact terms and conditions of an exemption in light of the employee's actual duties before assuming that the exemption might apply to the employee. The ultimate burden of supporting the actual application of an exemption rests on the employer.

Exemptions are typically applied on an individual workweek basis. Employees performing exempt and non-exempt duties in the same workweek are normally not exempt in that workweek.

Following is a list of some of the more commonly used exemptions. This list is not intended to be all-inclusive. By clicking on the underlined text below, you will be linked to information on the exemption. Other, less commonly used FLSA exemptions are listed after this section.

COMMONLY USED EXEMPTIONS

Commissioned sales employees of retail or service establishments are exempt from overtime if more than half of the employee's earnings come from commissions *and* the employee averages at least one and one-half times the minimum wage for each hour worked. You may also wish to review the applicable regulation.

Computer professionals: Section 13(a)(17) of the FLSA provides that certain computer professionals paid at least $27.63 per hour are exempt from the overtime provisions of the FLSA.

Drivers, driver's helpers, loaders and mechanics are exempt from the overtime pay provisions of the FLSA if employed by a motor carrier, and if the employee's duties affect the safety of operation of the vehicles in transportation of passengers or property in interstate or foreign commerce. You may also wish to review the applicable regulation.

Farmworkers employed on small farms are exempt from both the minimum wage and overtime pay provisions of the FLSA. You may also wish to review the specific regulation. Young workers employed on small farms, with parental consent, are also exempt from the child labor provisions of the FLSA. For more information on exemptions from the child labor provisions of the FLSA in agriculture, click the underlined text. Other farmworkers are exempt from the FLSA's overtime provisions. You may also wish to review the specific regulation.

Salesmen, partsmen and mechanics employed by automobile dealerships are exempt from the overtime pay provisions of the FLSA. You may also wish to review the applicable regulation.

Seasonal and recreational establishments: Employees employed by certain seasonal and recreational establishments are exempt from both the minimum wage and overtime pay provisions of the FLSA. You may also wish to review the applicable regulation.

Executive, administrative, professional and outside sales employees: (as defined in Department of Labor regulations) and who are paid on a salary basis are exempt from both the minimum wage and overtime provisions of the FLSA.

OTHER FLSA EXEMPTIONS

(MW = minimum wage OT = overtime CL = child labor)

Aircraft salespeople - OT

Airline employees - OT

Amusement/recreational employees in national parks/forests/Wildlife Refuge System - OT

Babysitters on a casual basis - MW & OT

Boat salespeople - OT

Buyers of agricultural products - OT

Companions for the elderly - MW & OT

Country elevator workers (rural) - OT

Workers with disabilities - MW

Domestic employees who live-in - OT

Farm implement salespeople - OT

Federal criminal investigators - MW & OT

Firefighters working in small (less than 5 firefighters) public fire departments - OT

Fishing - MW & OT

Forestry employees of small (less than 9 employees) firms - OT

Fruit & vegetable transportation employees - OT

Homeworkers making wreaths - MW, OT & CL

Houseparents in non-profit educational institutions- OT

Livestock auction workers - OT

Local delivery drivers and driver's helpers - OT

Lumber operations employees of small (less than 9 employees) firms - OT

Motion picture theater employees - OT

Newspaper delivery - MW, OT & CL

Newspaper employees of limited circulation newspapers - MW & OT

Police officers working in small (less than 5 officers) public police departments - OT

Radio station employees in small markets - OT

Railroad employees - OT

Seamen on American vessels - OT

Seamen on other than American vessels - MW & OT

Sugar processing employees - OT

Switchboard operators - MW & OT

Taxicab drivers - OT

Television station employees in small markets - OT

Truck and trailer salespeople - OT

Youth employed as actors or performers - CL

Youth employed by their parents - CL

Family and Medical Leave Act (FMLA)

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. This act affects companies with 50 or more employees in a 75 mile radius. Eligible employees are entitled to:

- Twelve workweeks of leave in a 12-month period for:
    - the birth of a child and to care for the newborn child within one year of birth;
    - the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
    - to care for the employee’s spouse, child, or parent who has a serious health condition;
    - a serious health condition that makes the employee unable to perform the essential functions of his or her job;
    - any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;” **or**
- Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee (military caregiver leave).

Genetic Information Nondiscrimination Act of 2008 (GINA)

This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

The EEOC enforces Title II of GINA (dealing with genetic discrimination in employment). The Departments of Labor, Health and Human Services and the Treasury have responsibility for issuing regulations for Title I of GINA, which addresses the use of genetic information in health insurance.

Definition of "Genetic Information"

Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e. family medical history). Family medical history is included in the definition of genetic information because it is often used to determine whether someone has an increased risk of getting a disease, disorder, or condition in the future. Genetic information also includes an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual, and the genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

Discrimination Because of Genetic Information

The law forbids discrimination on the basis of genetic information when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, or any other term or condition of employment. *An employer may never use genetic information to make an employment decision because genetic information is not relevant to an individual's current ability to work.*

Harassment Because of Genetic Information

Under GINA, it is also illegal to harass a person because of his or her genetic information. Harassment can include, for example, making offensive or derogatory remarks about an applicant or employee's genetic information, or about the genetic information of a relative of the applicant or employee. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so severe or pervasive that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area of the workplace, a co-worker, or someone who is not an employee, such as a client or customer.

Retaliation

Under GINA, it is illegal to fire, demote, harass, or otherwise "retaliate" against an applicant or employee for filing a charge of discrimination, participating in a discrimination proceeding (such as a discrimination investigation or lawsuit), or otherwise opposing discrimination.

Rules against Acquiring Genetic Information

It will usually be unlawful for a covered entity to get genetic information. There are six narrow exceptions to this prohibition:

- Inadvertent acquisitions of genetic information do not violate GINA, such as in situations where a manager or supervisor overhears someone talking about a family member's illness.

- Genetic information (such as family medical history) may be obtained as part of health or genetic services, including wellness programs, offered by the employer on a voluntary basis, if certain specific requirements are met.
- Family medical history may be acquired as part of the certification process for FMLA leave (or leave under similar state or local laws or pursuant to an employer policy), where an employee is asking for leave to care for a family member with a serious health condition.
- Genetic information may be acquired through commercially and publicly available documents like newspapers, as long as the employer is not searching those sources with the intent of finding genetic information or accessing sources from which they are likely to acquire genetic information (such as websites and on-line discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination).
- Genetic information may be acquired through a genetic monitoring program that monitors the biological effects of toxic substances in the workplace where the monitoring is required by law or, under carefully defined conditions, where the program is voluntary.
- Acquisition of genetic information of employees by employers who engage in DNA testing for law enforcement purposes as a forensic lab or for purposes of human remains identification is permitted, but the genetic information may only be used for analysis of DNA markers for quality control to detect sample contamination.

Confidentiality of Genetic Information

It is also unlawful for a covered entity to disclose genetic information about applicants, employees or members. Covered entities must keep genetic information confidential and in a separate medical file. (Genetic information may be kept in the same file as other medical information in compliance with the Americans with Disabilities Act.) There are limited exceptions to this non-disclosure rule, such as exceptions that provide for the disclosure of relevant genetic information to government officials investigating compliance with Title II of GINA and for disclosures made pursuant to a court order.

Immigration and Nationality Act (INA)

The Immigration and Nationality Act (INA) sets forth the conditions for the temporary and permanent employment of aliens in the United States and includes provisions that address employment eligibility and employment verification. These provisions apply to all employers.

Immigration Reform and Control Act of 1986 (IRCA)

Public Law 99-603 (Act of 11/6/86), which was passed in order to control and deter illegal immigration to the United States. Its major provisions stipulate legalization of undocumented aliens who had been continuously unlawfully present since 1982, legalization of certain agricultural workers, sanctions for employers who knowingly hire undocumented workers, and increased enforcement at U.S. borders.

See "Handbook for Employers" in Appendix B for I-9, Employment Eligibility Verification

McNamara-O'Hara Service Contract Act (SCA)

The McNamara-O'Hara Service Contract Act (SCA) applies to every contract entered into by the United States or the District of Columbia, the principal purpose of which is to furnish services to the United States through the use of service employees. The SCA requires contractors and subcontractors performing services on covered federal or District of Columbia contracts in excess of $2,500 to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. Safety and health standards also apply to such contracts.

The compensation requirements of the SCA are enforced by the Employment Standards Administration's Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL). The SCA safety and health requirements are enforced by the Occupational Safety and Health Administration (OSHA) within DOL.

Pregnancy Discrimination Act

This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Pregnancy Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.

Pregnancy Discrimination & Temporary Disability

If a woman is temporarily unable to perform her job due to a medical condition related to pregnancy or childbirth, the employer or other covered entity must treat her the same as any other temporarily disabled employee. For example, the employer may have to provide modified tasks, alternative assignments, disability leave or unpaid leave.

Pregnancy Discrimination & Harassment

It is unlawful to harass a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Pregnancy & Workplace Laws

Pregnant employees may have additional rights under the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. For example, The Wage and Hour Division released a fact sheet - Break Time for Nursing Mothers under the FLSA . For more information on FMLA, contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division can be reached at:

202-693-0051 (voice),
202-693-7755 (TTY), or
US Department of Labor - Wage and Hour Division

Pregnancy, Maternity & Parental Leave

Under federal law, if an employee is temporarily unable to perform her job due to pregnancy or childbirth, the employer must treat her the same as any other temporarily disabled employee. For example, if the employer allows temporarily disabled employees to modify tasks, perform alternative assignments or take disability leave or leave without pay, the employer also must allow an employee who is temporarily disabled due to pregnancy to do the same.

If an employer provides personal leave for other reasons, e.g., to take courses or other training, then the employer must grant personal leave for care of a new child.

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, if an employer requires its employees to submit a doctor's statement concerning their ability to work

before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

Further, under the Family and Medical Leave Act (FMLA) of 1993, a new parent (including foster and adoptive parents) may be eligible for 12 weeks of leave (unpaid or paid if the employee has earned or accrued it) that may be used for care of the new child. To be eligible, the employee must have worked for the employer for 12 months prior to taking the leave and the employer must have a specified number of employees.

Rehabilitation Act of 1973, Section 503

Section 503 of the Rehabilitation Act of 1973 prohibits discrimination and requires employers with federal contracts or subcontracts that exceed $10,000 to take affirmative action to hire, retain, and promote qualified individuals with disabilities. All covered contractors and subcontractors must also include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.

This law is enforced by the Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) within the U.S. Department of Labor.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects service members' reemployment rights when returning from a period of service in the uniformed services, including those called up from the reserves or National Guard, and prohibits employer discrimination based on military service or obligation. The U.S. Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) administers USERRA. USERRA applies to all public and private employers in the United States, regardless of size. For example, an employer with only one employee is covered for purposes of the Act.

The Walsh-Healey Public Contracts Act (PCA)

The Walsh-Healey Public Contracts Act (PCA) requires contractors engaged in the manufacturing or furnishing of materials, supplies, articles, or equipment to the U.S. government or the District of Columbia to pay employees who produce, assemble, handle, or ship goods under contracts exceeding $10,000, the federal minimum wage for all hours worked and time and one half their regular rate of pay for all hours worked over 40 in a workweek.

The PCA is enforced by the Employment Standards Administration's Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL).

Idaho Laws

Idaho Child Labor Law

Idaho Child Labor Laws are found under *Idaho Code §44-1301* through *§44-1308*. Violations of the Idaho Child Labor Laws should be brought to the attention of the probation officer or the school trustees in the county where the violations occur.

For businesses that fall under the coverage of the Fair Labor Standards Act, the Child Labor Laws are generally enforced by the U.S. Department of Labor. Federal Child Labor Laws are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being. The provisions include restrictions on hours of work for minors under 16 years of age and list hazardous occupations for both farm and nonfarm jobs declared by the Secretary of Labor as being too dangerous for minors to perform. Further information on prohibited occupations is available from the U.S. Department of Labor offices listed previously.

Minimum Wage

Unless specifically exempt, all employees subject to the provisions of the Idaho Minimum Wage Law must be paid at least $7.25 per hour effective July 24, 2009. The federal minimum wage increased to $7.25 per hour effective the same date.

New Hire Reporting

All employers are required by the New Hire Reporting Law to report new employees to the Idaho Department of Labor within 20 days of hire. This law applies to all Idaho employers and businesses that hire new employees or rehire employees whose previous employment ended more than 12 months before the current date of hire. New hire reporting is part of the national effort to reform welfare.

Employee in this case means an individual you provide with a W-4 form or W-2 form. The date of hire is the first day services are performed for wages by an individual.

Required Information

The following must be included when reporting new hires:

- Employee Name
- Employee Address
- Employee Social Security Number
- Date of Hire
- Employer Name
- Employer Address
- Federal Employer Identification Number
- Unemployment Insurance Employer Account Number

Rationale

Reporting new hires to the Idaho Department of Labor benefits children and your business. New hire reporting helps:

- Reduce government spending on welfare;
- Locate individuals who avoid their child support responsibilities;
- Enable the Idaho Department of Health and Welfare to more rapidly issue wage withholding orders, the most effective way to collect child support; and
- Prevent increases in Unemployment Insurance taxes by detecting improper benefit payments.

The Process

Both paper and electronic reporting options are available. Employers hiring 50 or more new employees per reporting period are encouraged to report electronically. To submit a report; mail, fax, internet, or drop off.

Mail completed copies of the report to:
Idaho Department of Labor
New Hire Reporting
317 W. Main St
Boise, ID 83735-0610
Fax (208) 332-7411
https://labor.idaho.gov/newhire/

The W-4 form is the standard paper reporting process. Submit a legible copy of the employee's W-4 form and add the date of hire and your Idaho Unemployment Insurance Employer Account Number to the bottom of the copy. A new hire reporting form is available if you call Idaho Commerce & Labor at 800-627-3880.

Recordkeeping Requirements

Employee records must be kept for a minimum of three (3) years. There is no requirement as to the manner in which the records are kept. Employee records must contain the following information:

1. Name, address, occupation, and sex of each employee (birth date required for employees under 19 years of age);
2. Hours worked each day and each week by each employee;
3. Regular hourly rate of pay;
4. Total overtime pay for each workweek;
5. Deductions from wages;
6. Total wages paid for each workweek and date of payment;
7. Hour and day when workweek begins.

Wage Payment Law

Idaho Code §45-606 through §45-617:

1. Upon layoff or termination by either the employer or the employee, all wages due must be paid to the employee the earlier of the next regularly scheduled payday or within 10 days of termination, weekends and holidays excluded. If the employee makes a written request for earlier payment of his wages, all wages then due must be paid within 48 hours, excluding weekends and holidays. *Idaho Code §45-606*

2. Unless exempt from the minimum wage requirements of Idaho's Minimum Wage Law, employees who are not being paid on an hourly or salary basis must be paid at least the applicable minimum wage for all hours worked in the pay period immediately preceding layoff or termination from employment. The minimum wage payment shall be made within the same time limitations provided for in *Idaho Code §45-606.*

3. If an employer fails to pay all wages due as required by law, that employer may be subject to penalties in the amount of wages equal to the employee's regular wage rate, as if he rendered service in the manner as last employed, for every day that the employer is in default up to 15 days, and a maximum of $750.00. *Idaho Code §45-607*

4. Every employer shall pay wages due to its employees at least once during each calendar month on regular paydays designated in advance. The end of a pay period for which payment is made on a regular pay period shall not be more than 15 days before such regular payday. *Idaho Code §45-608*

5. If the regular payday falls on a non-workday, payment shall be made on the preceding workday. *Idaho Code §45-608*

6. No employer shall withhold or divert any portion of an employee's wages unless:

   a. The employer is required or empowered to do so by state or federal law; or
   b. The employer has written authorization from the employee for deductions for a lawful purpose. *Idaho Code §45-609*

7. Employers shall furnish each employee with a written statement of deductions made from his or her wages for each pay period such deductions are made. *Idaho Code §45-609*

8. Every employer shall notify his or her employees at the time of hire of their rate of pay and their regularly scheduled payday. *Idaho Code §45-610*

9. Every employer shall notify his or her employees of any reduction in their rates of pay prior to the work being performed. *Idaho Code §45-610*

10. When there is a dispute over the amount of wages due an employee, the employer shall pay the undisputed portion without condition. *Idaho Code §45-611*

11. The acceptance by an employee of a check for wages when there is any restrictive endorsement written on the check shall not constitute a release with respect to the disputed amount. *Idaho Code §45-611*

12. Claims for wages filed with the Idaho Department of Labor are limited by the same dollar amount as the small claims department of the Magistrate Division of the District Court. *Idaho Code §45-617*

13. No employer shall discharge an employee or in any manner retaliate against an employee for asserting their rights under the Wage Payment Act and Minimum Wage Law. *Idaho Code §45-613*

14. It is a misdemeanor criminal offense for an employee to make false claim for wages. *Idaho Code §45-612*

Required Workplace Posters

POSTER	WHO MUST POST	CITATIONS / PENALTY	OTHER INFORMATION
JOB SAFETY AND HEALTH PROTECTION Occupational Safety and Health Administration 29 USC 657(c), 29 CFR 1903.2 En Español	Private employers engaged in a business affecting commerce. Does not apply to federal, state or political subdivisions of states.	Any covered employer failing to post the poster may be subject to citation and penalty.	Employers in states operating OSHA-approved state plans should obtain and post the state's equivalent poster.
EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW Office of Federal Contract Compliance Programs Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; 38 U.S.C. 4212 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; 41 CFR Chapter 60-l .42; 41 C.F.R 60-250.4(k); 4 1 C.F.R. 60-74 1.5(a)4 En Español	Entities holding federal contracts or subcontracts or federally assisted construction contracts of $10,000 or more; financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes; depositories of federal funds or entities having government bills of lading. Please note that the EEOC* may provide additional posting requirements at Section 2000e-10 [§711].	Appropriate contract sanctions may be imposed for uncorrected violations.	Post copies of the poster in conspicuous places available to employees, applicants for employment, and representatives of labor organizations with which there is a collective bargaining agreement. Also, non construction contractors or subcontractors with 50 or more employees and a contract of $50,000 or more [otherwise required by 41 CFR 60-2.1 (a)] should develop an equal opportunity policy as part of an affirmative action plan and post the policy on company bulletin boards. 41 CFR 60-2.2 1 (a)(9).
Fair Labor Standards Act (FLSA) Minimum wage poster Wage and Hour Division En Español Chinese Version (PDF) Russian Version (PDF) Thai Version (PDF) Hmong Version (PDF) Vietnamese Version (PDF) Korean Version	Every private, federal, state and local government employer employing any employee subject to the Fair Labor Standards Act, 29 USC 211, 29 CFR 516.4 posting of notices.	No citations or penalties for failure to post.	Any employer of employees to whom sec. 7 of the Fair Labor Standards Act does not apply may alter or modify the poster legibly to show that the overtime provisions do not apply.

(PDF) **Specific posters for:** State & Local Gov't Employees (PDF) Agricultural Employees (PDF) American Samoa (PDF) Northern Mariana Islands (PDF)			
Employee Right for Workers with Disabilities/Special Minimum Wage Poster Wage and Hour Division 29 CFR 525.14 En Español	Every employer having workers employed under special minimum wage certificates authorized by section 14(c) of the Fair Labor Standards Act.	No citations or penalties for failure to post.	Where an employer finds it inappropriate to post such a notice, the employer may provide the poster directly to all employees subject to its terms.
YOUR RIGHTS UNDER THE FAMILY AND MEDICAL LEAVE ACT Wage and Hour Division 29 CFR 825.300, .402 En Español	Public agencies (including state, local, and federal employers), public and private elementary and secondary schools, as well as private sector employers who employ 50 or more employees in 20 or more work weeks and who are engaged in commerce or in any industry or activity affecting commerce, including joint employers and successors of covered employers.	Willful refusal to post may result in a civil money penalty by the Wage and Hour Division not to exceed $100 for each separate offense.	Where an employer's workforce is not proficient in English, the employer must provide the notice in the language the employee speaks. The poster must be posted prominently where it can be readily seen by employees and applicants for employment.
Uniformed Services Employment and Reemployment Rights Act (Notice for use by all employers.) Veterans' Employment and Training Service 38 U.S.C. 4334, 20 CFR 1002.	The full text of the notice must be provided by each employer to persons entitled to rights and benefits under USERRA.	No citations or penalties for failure to notify. An individual could ask USDOL to investigate and seek compliance, or file a private enforcement action to require the employer to provide the notice to employees.	Employers may provide the notice by posting it where employee notices are customarily placed. However, employers are free to provide the notice in other ways that will minimize costs while ensuring that the full text of the notice is provided (e.g., by distributing the notice by direct handling, mailing, or via electronic mail).
NOTICE TO ALL EMPLOYEES WORKING ON FEDERAL OR FEDERALLY FINANCED CONSTRUCTION PROJECTS (Davis-Bacon Act) Wage and Hour Division 29 CFR 5.5(a)(l) En Español	Any contractor/subcontractor engaged in contracts in excess of $2,000 for the actual construction, alteration/repair of a public building or public work or building or work financed in whole or in part from federal funds, federal guarantee, or federal pledge which is subject to the labor standards provisions of any of the acts listed in 29 CFR 5.1.	No citations or penalties for failure to post.	The contractor or subcontractor is required to insert in any subcontract the poster requirements contained in 29 CFR 5.5(a)(l). The poster must be posted at the site of work, in a prominent and accessible place where it can easily be seen by workers.

NOTICE TO EMPLOYEES WORKING ON GOVERNMENT CONTRACTS (Service Contracts Act) Wage and Hour Division 29 CFR 4.6(e), .184 En Español	Every contractor or subcontractor engaged in a contract with the United States or the District of Columbia in excess of $2,500 the principal purpose of which is to furnish services in the U.S. through the use of service employees.	No citations or penalties for failure to post.	Contractors and any subcontractors engaged in federal service contracts exceeding $2,500 shall notify each service employee or post the minimum monetary wage and any fringe benefits required to be paid pursuant to the contract.
NOTICE: EMPLOYEE POLYGRAPH PROTECTION ACT Wage and Hour Division 29 CFR 801.6 En Español	Any employer engaged in or affecting commerce or in the production of goods for commerce. Does not apply to federal, state and local governments, or to circumstances covered by the national defense and security exemption.	The Secretary of Labor can bring court actions and assess civil penalties for failing to post.	The Act extends to all employees or prospective employees regardless of their citizenship status. Foreign corporations operating in the United Status must comply or will result in penalties for failing to post. The poster must be displayed where employees and applicants for employment can readily observe it.
NOTICE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT Wage and Hour Division 29 CFR 500.75, .76 In English/En Español In English/An Ereyôl	Agricultural employers, agricultural associations and farm labor contractors.	A civil money penalty may be assessed.	Each employer covered by the Act who provides housing to migrant agricultural workers shall post in a conspicuous place, throughout the occupancy period, information on the terms and conditions of occupancy of such housing.
NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS Office of Labor-Management Standards Executive Order 13496; 29 CFR Part 471	Federal contractors and subcontractors are required to post the prescribed employee notice conspicuously in plants and offices where employees covered by the NLRA perform contract-related activity, including all places where notices to employees are customarily posted both physically and electronically.	The sanctions, penalties, and remedies for noncompliance with the notice requirements include the suspension or cancellation of the contract and the debarring of Federal contractors from future Federal contracts.	The notice, prescribed in the Department of Labor's regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively with their employers and to engage in other protected concerted activity. Additionally, the notice provides examples of illegal conduct by employers and unions, and it provides contact information to the National Labor Relations Board (www.nlrb.gov), the agency responsible for enforcing the NLRA.

The Davis-Bacon Act (Government construction)

Uniformed Services Employment and Reemployment Rights Act (Notice for use by federal agency employers)

The Service Contract Act (SCA)

Equal Employment Opportunity

En Español

Section 7: INSURANCE

All businesses need insurance, but what type and how much depends on the type of business and what is required by law. The State of Idaho requires businesses to carry worker's compensation insurance and unemployment insurance, with few exceptions. Contractors are also required to provide proof of liability insurance.

There are several other common types of insurance that are used by contractors, like builder's risk, property, equipment, and automobile. Depending on the type of contractor some types of specialty insurance may also be required. The following is a brief overview of the different types of insurance that are common in the construction industry.

- **Automobile Insurance**
  - Bodily Injury Liability protects the contractor from the cost of personal or bodily injury to others.
  - Property Damage Liability protects the contractor from the cost of damage to any physical property.
  - Vehicle Operator Liability protects the contractor or employees whether they are driving the vehicle.
  - Medical Payments is coverage up to a specified limit for medical, surgical, hospital, and funeral expenses, regardless of the liability of the contractor.
  - Collision covers the loss of the contractor's own vehicle in the case of a collision with another vehicle or object.
  - Comprehensive insurance covers protection in the event of physical damage (other than collision) or theft of the contractor's vehicle.
- **Builders Risk**.
  - Builder's risk insurance covers damage to the work itself while the project is under construction. Coverage can be obtained by the owner or the contractor. It insures damage to any physical improvements, not just structures. Builder's risk insurance typically covers loss of or damage to materials intended for use in the project. The most common type of this insurance is all-risk builder's risk insurance. Another type is named-peril builder's risk insurance which protects the contractor from losses resulting from specifically named items in the policy.
- **Commercial General Liability**
  - Liability insurance protects against claims presented by third parties who suffer bodily injury or property damage as a result of the construction.
- **Completed Operations** (Errors and Omissions)
  - Completed operations insurance is a liability insurance that covers injuries or property damage suffered by third parties as the result of the contractor completing an operation. Reasonable care must be taken in providing a safe and free of hazards jobsite.
- **Contractors Pollution Liability**
  - These types of policies provide protection for environmental claims commonly excluded by general liability claims.
- **Disability Insurance**
  - Disability insurance is a form of insurance that insures the beneficiary's earned income against the risk that a disability will make working impossible. It includes paid sick leave, short-term disability benefits, and long-term disability benefits. The state of Idaho does not have a state-mandated disability insurance program for employees other than the coverage offered by Worker's Compensation.
- **Employment Practices Liability Insurance** (EPLI)
  - This type of insurance protects against wrongful termination, discrimination, harassment and other employment-related lawsuits filed by employees, former employees, and potential employees. The insurance covers business, including officers and directors.
- **Health Insurance**
  - Health insurance is insurance against the risk of incurring medical expenses among individuals. New federal reform requires businesses with over 50 employees to provide their employees with health insurance.

- **Professional Liability Insurance**
    - This type of insurance provides protection against loss incurred by the owner because of some negligent act, error, or omission by the contractor.
- **Property Insurance**
    - Property insurance protects buildings, property and inventory owned by the business against physical loss or damages by theft, accident, or other occurrences, including property not located at your business location.

Unemployment Insurance/Compensation

Unemployment insurance is an employer-funded program which protects workers against complete loss of wages during periods of involuntary unemployment. Claimants are eligible for unemployment insurance if they meet monetary and personal eligibility requirements.

Monetary eligibility is measured by a claimant's attachment to the labor force. Claimants receive an amount depending upon their earnings during the "base period." The base period is generally the first four of the last five calendar quarters completed just before a claim is filed.

Idaho has an alternate base period option in those cases where an individual has been disabled for some time and does not have wages in the regular base period. In this situation, eligibility may be calculated on a base period of the first four the last five calendar quarters completed immediately prior to the beginning of the period of disability.
If monetarily eligible, a claimant must also meet the following personal eligibility requirements before benefits can be paid:

- unemployed through no fault of his/her own;
- able to work;
- available for suitable work; and
- actively seeking work.

When an individual files an unemployment insurance claim, the Department of Labor notifies the claimant's last employer, and any preceding employers if necessary, with the claimant's reason for separation. The employer is requested to promptly report any facts about the separation which are in conflict with the worker's version.

The return of the form requires immediate attention since payment of benefits cannot be unduly delayed. Prompt return also helps protect the employer's experience rating by limiting benefit charges to those paid to former employees who are involuntarily unemployed. This also protects the Employment Security Fund from paying unemployment insurance benefits to claimants who are ineligible.

Employers fund the Unemployment Insurance program by paying quarterly payroll tax. Each employer, unless a cost reimbursement employer, is assigned a tax rate known as an experience rate. This rate is used to calculate quarterly unemployment insurance taxes.

Experience rates are assigned each year.

New employers are assigned a standard rate until they have sufficient employment experience (typically 1 1/2 - 2 years) upon which to base an experience rate.

Idaho's Employment Security Law provides an experience rating system which assigns rates to employers each year based on the employer's actual employment experience. The tax payments and benefit charges in relationship to average payrolls are used to calculate each employer's experience rating.

To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative.

Employer Liability

An employer is any individual, partnership, corporation, Limited Liability Company, association, trust, organization, political subdivision, or other entity, which employs one or more individuals to perform services in Idaho. Idaho Employment Security Law requires that anyone making payment for services performed must file quarterly employment reports. When an employer makes payment for services performed, it is the responsibility of the employer to notify the Department of Labor. This includes notification of any change in ownership or legal entity operating a business or any transfer of the trade or business.

If an employer has more than one distinct type of employment meeting the various coverage criteria, the employer must report all employment under the same account number. See Employer Liability Guidelines.

If an employer is subject to Federal Unemployment Tax (FUTA) on any services, that employer is automatically subject to State Unemployment taxes.

Once it has been determined that an employer must pay State Unemployment taxes, the employer must continue to file quarterly reports and pay necessary taxes, even if the employer's wage payments fall below the amounts stipulated in the Employer Liability Guidelines or the employer has NO employment to report. The account will be terminated when the employer advises the Department that the business, farm or household has ceased to operate, or that the employer has not had sufficient employment to meet the coverage criteria during the preceding calendar year and does not expect to pay subject wages in future periods. The employer's tax liability status will be reviewed upon his request to terminate the account.

An employer is automatically covered and subject to unemployment taxes and must report all wages in any amounts if the employer has taken over an existing business or acquired the assets of another, who at the time of acquisition, was a covered employer. Under these conditions the successor employer must report wages until it is determined the employer is no longer covered for UI tax purposes.

Cost Reimbursement Employers

Governmental units and nonprofit organizations as defined by Section 501(c)(3) of the Internal Revenue Code are covered employers under state law and may elect to reimburse the Idaho Employment Security fund for benefit payment costs as an alternate method of financing (rather than being assigned an experience rate. There are two methods of cost reimbursement financing specified in the law.

1. The employer can be billed quarterly for his proportionate share of unemployment insurance benefit costs based on the percentage of wages paid in the base period, or

2. The employing entity can elect to make quarterly advance payments equal to one percent of total quarterly wages. Soon after each calendar year, the employer's account is reconciled. The employer is billed if benefit costs exceed the advance payments. A refund is made if benefit costs are less than the advance payments.

A cost reimbursement employer may be required to provide a surety bond, particularly if the employer is on a limited budget and assets are minimal.

A group of cost reimbursement employers involved in similar activities may elect, with the approval of the Director of the Department of Labor, to act as a group in fulfilling the requirements of this Act.

If a former employee becomes eligible for unemployment benefits, a cost reimbursement employer who paid wages during the claimant's base period will be liable for a proportionate share of benefit costs. Regardless of reasons for separation from the cost reimbursement employer, a claimant could qualify for benefits later by earning sufficient wages

from a subsequent employer. If the claimant then became unemployed through no fault of his or her own, proportionate benefit costs would be charged to any cost reimbursement employer which paid wages during the claimant's base period.

To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative.

Employer Liability Guidelines

General

Employers are liable if, during the current or the preceding calendar year, they pay wages of $1500 or more in a calendar quarter; or, if during this or the preceding calendar year one or more workers were employed for some portion of a day during 20 different weeks in the year.

Agricultural Employment

Agricultural employers are liable if during the current or preceding calendar year they paid $20,000 or more in CASH wages during a calendar quarter; or, if during this or the preceding calendar year ten (10) or more workers were employed for some portion of a day during 20 different weeks in the year.
An agricultural employer must report all wages for the entire calendar year and pay the associated UI taxes if the coverage criteria are met at any time during the year. No late penalty will be applied if wages in prior quarters of the year and reported and UI taxes paid on or before the due date of the quarter in which coverage is met.
Noncash remuneration for agricultural services is not considered as "wages" as long as they adhere to IDAPA 09.01.35.061.03(j). Examples of non-cash wages that are typically not reportable are rent, room, board or commodities furnished to workers. Non-cash wages should not be used in determining coverage criteria or for reporting wages on quarterly reports.

Domestic Employment

Employers of domestic workers including private homes, local college clubs, sororities, fraternities, etc., who pay CASH wages of $1,000 or more in a calendar quarter in the current or preceding calendar year, are required to report. If an employer employs other types of workers, the wages of its domestic workers are not automatically covered; however, when the $1,000 quarterly cash criterion is met, an employer becomes liable for unemployment taxes on the wages paid to a domestic or household worker for that entire period and following calendar year. The wages should be reported in the quarters in which they were actually paid. While only cash wages are used in meeting the $1,000 per quarter coverage criteria, after the coverage test has been met, meals, lodging, or any other noncash remuneration used as part of the workers pay must be included on quarterly reports as wages for domestic services.

Employers Operating Two or More Establishments in Idaho

When one employing entity operates two or more establishments in Idaho, wages of all establishments must be reported under one account. If each of the establishments is operated by a separate legal employing entity, an account will be established for each entity. For example, two corporations are separate legal entities even though individual A owns the majority of the stock in each corporation. Also, where A is a partner of B operating one store and a partner of C operating a second store, they must be considered two separate entities.

NOTE: A husband and wife with separate sole proprietorship businesses may have separate account numbers.

To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative or go to http://labor.idaho.gov/dnn/Default.aspx?alias=labor.idaho.gov/dnn/idl

Covered Employment

Covered employment means employment that is subject to the Employment Security Law and on which Unemployment Insurance taxes must be paid and reports filed when the wage liability criteria are met. See Employer Liability Guidelines.

The term "covered employment" means an individual's entire employment activity, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied.

Independent Contractor

Independent contractors operate an independent business wherein they contract with other businesses and individuals to provide a service.

Payments to independent contractors are exempt from UI taxes if BOTH of the following conditions are shown:

1. The worker is free from the right of direction and control, both in contract and in fact, in the performance of the worker's contract of service, and
2. The worker is engaged in an independently established trade, occupation, or business.

To determine if the worker has been and will continue to be free from control or direction in the performance of his work (Part 1 above), the following factors shall be considered:

1. Whether the employer has control over:
    a. the details of the work;
    b. the manner, method, or mode of doing the work; and
    c. the means by which the work is accomplished;
2. The freedom from direction and control must exist in theory (under that contract of service) and in fact.
3. The employer must demonstrate that it lacked a right to control the worker.

To determine if the worker is engaged in an independently established trade, occupation, profession, or business (Part 2 above), the following factors shall be considered:

1. Skills, qualifications, and training required for the job;
2. Method of payment, benefits, and tax withholding;
3. Right to negotiate agreements with other workers;
4. Right to choose business techniques;
5. Right to determine hours worked;
6. Existence of own outside business or occupation;
7. Special licensing or regulatory requirements for performance of work;
8. Whether the work is part of the employer's general business;
9. The nature and extent of the work;
10. The term and duration of the relationship;
11. Work premises;
12. Whether the worker has the authority to hire subordinates;
13. Whether the worker owns or leases major items of equipment or incurs substantial unreimbursed expenses.
14. Whether either party would be liable to the other party upon peremptory or unilateral termination of the business relationship.
15. Other factors which, viewed fairly in light of all the circumstances in a given case, may indicate the existence or lack of an independently established trade occupation, profession or business.

NOTE: The fact that the individual is paid on a commission, share of the profits, fee, job, or piecework basis does not mean that a worker is an independent agent. The method of payment is not controlling.
Any individual engaged to perform or assist in performing the work of any person in the service of an employer is considered an employee of that employer, whether the individual was engaged or paid directly by the employer, so long as the employer had actual or constructive knowledge of the work.

The employer must maintain records so that wages and hours of exempt employment are shown separately from covered employment for each worker. The employer must report and pay tax on all wages including exempt wages IF records are not kept to distinguish that which is exempt from that which is covered employment.

To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative.

Covered Employment Guidelines

Statutory Employees

By statute, officers of corporations are employees. They are the only statutory employees for Unemployment Insurance tax purposes by law. However, certain workers are required to be in the employ of, or under the direct supervision of, a principal who is properly licensed. These workers are usually covered for Unemployment Insurance tax purposes. They generally include:

- Cosmetologists and barbers working in a shop licensed by another individual, excluding workers who have a contiguous shop license and are free from direction and control.
- Well-drilling rig operators and laborers working for Idaho licensed well drillers.
- Guides working under Idaho licensed outfitters.
- Unlicensed real estate appraisers working under licensed real estate appraisers.
- Loan originators working for a mortgage broker.

Casual Labor

Casual labor is defined as work performed that is not in the course of the employer's trade or business which is occasional, incidental, or irregular. Do not confuse casual labor with temporary or part-time employment, which is taxable. If during a calendar quarter the cash remuneration paid to an individual for casual labor is $50 or more or the casual labor is performed by an individual who is regularly employed by the employer on some portion of 24 days during the calendar year, or the preceding calendar quarter, the service is covered employment and remuneration is taxable under Idaho Employment Security Law as described in Idaho Code 72-1316A(19).

Aliens / Resident Aliens / Non-Citizens

Services performed by all workers including aliens, resident aliens, and other noncitizens of the United States must be considered when making unemployment insurance reports. Payments made for such worker's service is generally taxable when coverage criteria is met.
Payments made to temporary alien agricultural laborers permitted to work under the H2 provisions of the Immigration and Reform Control Act of 1986 are not taxable wages. These payments must be used to determine if the coverage criteria for an agricultural employer have been met.

FUTA

Employers and services covered by the Federal Unemployment Tax Act (FUTA) are automatically covered under Idaho State law. However, services that are exempt from FUTA coverage are NOT automatically exempt for the state. To be exempted, the services must be specifically exempted by state statute. Employers are allowed to take the maximum state unemployment tax credit on their federal form 940 if they have paid all state contributions by the due date of the 940 form. For specific questions on the 940 form, contact the IRS.

Contractors / Subcontractors

The Idaho Employment Security Law provides that a principal contractor can be held liable for tax due on wages paid by a subcontractor. No covered employer which contracts with any contractor or subcontractor who is a covered employer shall make final payment to such contractor or subcontractor for any indebtedness due, until after the contractor or subcontractor has paid or has furnished a good and sufficient bond acceptable to the Director of the Idaho Department of Labor for payment of contributions due, or to become due, in respect to personal services which have been performed by individuals for such contractor or subcontractor. Failure to comply with this provision shall render the covered employer directly liable for such contributions; and the director shall have all of the remedies of the law as though the services in question were performed directly for the covered employer.

Employees Performing Services in More Than One State

To be considered covered employment under the Idaho law, the worker must perform the services within this state. Services are considered to be performed or localized within this state:

1. If the services are performed entirely within this state.
2. Most of his/her services are performed in this state and he/she works outside the State only at temporary or occasional tasks.

If 1 or 2 are not met, the services may still be reportable to Idaho. To determine the proper state to report to for UI tax purposes, contact any Department of Labor tax representative.

Current Year Wage Base and Standard Rate

The Wage Base is the amount of each employee's wages that are taxable for Unemployment Insurance Tax purposes. The Wage Base for 2011 is $33,300.

The Standard Rate is the Unemployment Insurance Tax Rate that is assigned to new employers until they have participated in the program enough to have an experience rate calculated for them. The Standard Rate for new employers in 2011 is 3.360%.

Wages

The term "wages" means all payments for personal services from all sources, including commissions and bonuses and the cash value of any payment in any form other than cash.
An employee's remuneration for personal services constitutes "wages" subject to taxation regardless of:

1. **Medium of Payment**

   The wages may be in cash, goods, board and lodging, working out a debt, etc. The reasonable cash value of the noncash payments are considered wages.

2. **Designation of Payment**

   Regardless of the labor or designation of the payment, it is wages. The payment may be designated as "wages," "salary," "bonuses," "commission," "profit sharing," "draws," "dividends," etc., but it will still constitute wages.

3. **Basis of Payment**

   The nature of wages is not affected by the fact that the work is performed on a piecework basis, job basis, a commission basis, or straight salary.

4. **Frequency of Payment**

   Payments made for personal services are wages whether paid on an hourly, daily, weekly, monthly, yearly, or other basis.

Notice is given each year regarding the amount of wages to be taxable for each employee. This amount (taxable wage base) is determined by the state's average annual wage in covered employment. An employer is not required to pay tax on wages of more than the annual base amount for any particular employee. The "excess" wages are reported on item 6 of the Employer Quarterly Unemployment Insurance Tax Report.
To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative.

Reportable and Nonreportable Wages

Bonuses
Bonuses paid to an employee are reportable wages.

Commissions
Commissions are reportable wages unless specifically exempt from coverage (real estate or insurance sales).

Spouses Hired Together
Employers must report wages of all employees. If both individuals are required to perform services, the wages for such services must be reported separately for unemployment insurance purposes.

Courtesy Discounts
Courtesy discounts and mark-downs are not reportable wages if purchases made are optional with the employee and do not constitute regular or systematic remuneration for services rendered.

Disability Pay
Illness or accident disability payments, or medical or hospitalization expenses made to, or on behalf of, an individual are not reportable after six calendar months following the last calendar month in which the individual performed services for the employer.

Officers Salaries
Payments to officers of a corporation or association for services performed, whether cash, merchandise, stock issued, dividends, return of equity, and sometimes loans and rents are reportable wages up to a reasonable fair market wage (including subchapter S and other closely held corporations).

Payments Made to Children or Parents of Individual Proprietors
Payments by an individual proprietor to his or her children under 21 years of age (including foster children or stepchildren) or to the proprietor's parents are not reportable wages.
NOTE: This exemption does not apply for corporations or professional associations. This exemption may apply to partnerships if the child is the child of all the partners or the parent is the parent of all partners.

401(k) Plans

1. Elective contributions: These amounts are taxable and must be reported as part of the employee's gross taxable wages. (Elective contributions are the contributions that an employer makes to a 401(k) plan based upon an employee's election.)

2. Voluntary after-tax contributions: These are additional contributions made by an employee to a 401K plan and should have already been included in the employee's gross wage reported for Idaho unemployment insurance tax. Note: Payments to PERSI by an employee are not taxable for state UI tax purposes.

3. Matching Contributions: These amounts are not taxable and are exempt for unemployment insurance tax purposes. (Matching contributions are the contributions made by an employer to an employee's 401K plan based on how much the employee contributes to the plan.)

4. Non-Elective Contributions: These amounts are not taxable and are exempt for unemployment insurance tax purposes. (Non-elective contributions are contributions made by an employer to an employee's 401K plan that do not depend on any election or contribution by the employee.)

Cafeteria Plans (IRS Code Section 125)
These amounts should not be reported as part of the employee's gross taxable wages.

Severance Pay
Severance pay or dismissal pay are reportable wages.

Sick Pay
Sick pay, except that resulting from an industrial accident (under Worker's Compensation or related), is a reportable wage.

Tips and Gratuities
Tips and gratuities received while performing services in covered employment totaling twenty dollars ($20) or more in a month, and which are reported in writing to the employer by the employee, as required by the IRS, are reportable wages for unemployment insurance tax purposes.

Travel and Other Business Expenses

Monies paid by employers to employees for business expenses incurred in the conduct of the employer's business will not be regarded as reportable wages provided all of the following criteria are met:

1. They must have paid or incurred deductible expenses while performing services as employees,

2. They must adequately account to the employer for these expenses,

3. They must return any excess reimbursement or allowance, and

4. The employer's records must clearly differentiate between business expenses and wages.

To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative.

Proper Quarter to Report Wages

Wages are generally reported in the calendar quarter the wages are actually paid.

When Unemployment Insurance Taxes are Due
Unemployment Insurance tax must be paid quarterly by the end of the month following the calendar quarter. The due dates are:

First Quarter - April 30
Second Quarter - July 31
Third Quarter - October 31
Fourth Quarter - January 31

Requests for Extension of Time
The Director may, for good cause shown by a covered employer, grant payment extensions, not exceeding sixty (60) days. Employers must request extensions on or before the due date for the quarter on which the extension is desired.

Penalty for Late Payment
A penalty is assessed when the quarterly tax is not paid by the due date. Penalties accrue separately on each quarter at the rate of 4% of the tax due or $20 whichever is greater, for each month or fraction of a month delinquent. For example, contributions of $501 due January 31 on the fourth quarter are paid in March, two months late, penalty would be $40.08. Payments are applied to penalties first if not specifically included with the late report. This may result in a tax deficiency and accrue additional penalty when not paid promptly. Penalty is limited to no more than the amount of tax due for the quarter.

Penalty for Late Filing or Failure to File

A penalty is assessed when an employer willfully fails to file the Employer Quarterly Unemployment Insurance Tax Report when due. Repeated late filings is an indication of willfulness but it is not the only factor used. The penalty for the first offense is the great of $75 or 25% of the tax due for the quarter; for the second offense, it is the greater of $150 or 50% of the tax due for the quarter; and the greater of $250 or 100% of the tax due for the quarter for the 3rd or higher offense. Typically when a problem is detected that may result in a failure to file penalty, a warning letter is issued to give the employer an opportunity to file and avoid the penalty.

To obtain more information about unemployment insurance taxes, contact any Department of Labor tax representative.

Contact Information

State of Idaho
Department of Labor
Main Office
317 W. Main Street
Boise, ID 83735
(208) 332-3570
Website: http://labor.idaho.gov

Worker's Compensation Insurance

Worker's compensation insurance is no-fault insurance that covers wages and provides medical benefits for workers who sustain a job related injury or illness. *Businesses with employees in Idaho are required to carry worker's compensation insurance.*

In Idaho, an injured worker of an uninsured subcontractor may collect workers' compensation insurance benefits from the general contractor. Improperly classifying employees as subcontractors as a device to avoid paying workers' compensation premiums is on the rise in Idaho. *This is illegal* and can result in unexpectedly large premium payments due at an audit, policy cancellation, civil or criminal charges, fines, and jail time.

There is no public "safety net" for injured employees of uninsured employers in Idaho. The injured worker's recourse is against the uninsured employer personally. Many employers recognize that, in addition to complying with the law, maintaining a workers' compensation insurance policy is a smart business decision.

Idaho Industrial Commission

The Idaho Industrial Commission is the state agency that administers the Idaho Workers' Compensation Law. The Commission is not an insurance company and does not provide insurance to employers. The Commission works with employers to ensure that proper workers' compensation insurance coverage is secured for employees. The Commission also monitors and audits claims filed for workers' compensation benefits and conducts judicial proceedings, including mediation, on disputed workers' compensation claims.

Employer Guidelines

Employers with one or more full-time, part-time, seasonal, or occasional employees are required to maintain a workers' compensation policy, unless specifically exempt by law. Workers' compensation insurance must be in effect before an employee begins work. Employment that *may* be exempt from mandatory coverage includes:

- Household domestic service
- Employment of family members dwelling in the employer's household (*applies only to sole proprietorships*).
- The owner of a sole proprietorship; working members of a partnership or limited liability company; individuals who are corporate officers and who own at least 10% of the stock and who are directors, if the corporation has a board of directors.
- Employment covered under Federal Workers' Compensation Laws.
- Pilots of agricultural spraying or dusting planes (*under certain conditions*).
- Association real estate brokers and real estate salespersons when paid solely by commission.
- Volunteer ski patrollers.
- Officials of athletic contests in secondary schools only (grades 7-12 or any combination thereof).
- Casual employment or work occurring occasionally or at irregular times and which is not related to the type of business conducted by the employer.
- Employment as an outworker. (*Situations where materials are furnished to a worker who performs the work at a location not under the control of the employer, such as a worker who receives mass mailing materials from the employer and assembles them at home.*)

Certain family member employees of a sole proprietor employer who do not reside in the same household as the employer may file an election for exemption with the Industrial Commission. For more detailed information or to obtain copies of the form for filing an election for exemption, contact the Industrial Commission or visit the Commission's website at: www.iic.idaho.gov. To determine if you qualify as an exempt employer, contact one of the Industrial Commission offices.

Labor or Sub-Contractors

If you have contract workers, whether the contract is verbal or written, the workers may be considered employees under the Workers' Compensation Law. To ensure you are in compliance with the law, contact an Industrial Commission Employer Compliance representative to discuss your situation. The requirement for coverage is determined on a case-by-case basis.

Workers' Compensation Insurance Cost

Workers' compensation insurance premiums are based on payroll and vary according to the type of business or work performed by the employees. The employer is required by law to pay the entire cost of workers' compensation insurance coverage. Deducting any portion of the cost of these premiums from employee wages is specifically prohibited. Your insurance agent or representative can assist you with determining your individual workers' compensation insurance cost.

Obtaining Workers' Compensation Insurance

Worker's compensation insurance can be obtained in four ways:

- **Private Insurance Company**
  - Contact an insurance agency.
- **State Insurance Fund**
  - Coverage can be purchased through the State Insurance Fund
- **Assigned Risk Pool**
  - Employers considered to be high risk and who are unable to obtain coverage from private insurance companies or the State Insurance Fund can apply for coverage through the assigned risk pool. The pool is administered by the National Council on Compensation Insurance (NCCI).
- **Self-Insurance**
  - This option is available only to Idaho employers with large payrolls who are able to meet specific requirements. Approval for self-insurance must be granted by the Idaho Industrial Commission.

Penalties

If one of your employees is injured and you do not have workers' compensation insurance in effect at the time of the injury, you can be personally liable for all workers' compensation benefits due the injured worker, including medical and disability, as well as a penalty of 10% of the amount of medical and disability benefits because you were uninsured at the time of the injury or occupational disease.

In addition, employers who operate without workers' compensation insurance can be liable for a penalty of $2.00 per day per employee, or $25.00 per day, whichever amount is greater. The Workers' Compensation Law authorizes the Industrial Commission to file a lawsuit in district court seeking an injunction to prohibit the employer from operating the business while in violation of the Workers' Compensation Law. Failure to carry workers' compensation is a misdemeanor under Idaho law.

For more information contact an Employer Compliance representative for assistance.

Idaho Industrial Commission
Main Office
P.O. Box 83720
700 S Clearwater Lane
Boise, ID 83712
1-208-334-6000
FAX 1-208-334-2321
www.iic.idaho.gov

Alternate Insurance Program

- **Owner Controlled Insurance Program**
  - This is an insurance policy held by a property owner during the construction or renovation of a property. This policy covers all construction, materials, hazard, workman's compensation, terrorist, and other building related insurance.

For more information contact:

Idaho Industrial Commission
700 S. Clearwater Lane
Boise, ID 83712
1-208-334-6000
www.iic.idaho.gov

Idaho Department of Insurance
700 West State Street
Boise, ID 83720
1-208-334-4250
www.doi.idaho.gov

Idaho State Insurance Fund
1215 W. State Street
Boise, Idaho 83720
1-800-334-2370
https://www.idahosif.org/

NCCI Holdings, Inc.
901 Peninsula Corporate Circle
Boca Raton, FL 33487
1-800-622-4123
www.ncci.com

Social Security Office
1-800-772-1213
www.socialsecurity.gov

Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
1-208-332-3570
http://labor.idaho.gov

Bonding

For a construction project to be successful the contractor must evaluate and manage the risk involved and must make financially responsible decisions to ensure timely completion of the job. Construction bonding is a risk management tool used to protect the owners. A bond constitutes a legal guarantee that the project will be completed as expected.[13]

Surety Bonds

A surety bond is a bond issued by an entity (surety company) on behalf of a second party (contractor), guaranteeing that the second party (contractor) will fulfill an obligation or series of obligations to a third party (project owner). In the event that the obligations are not met, the third party (project owner) will recover its losses via the bond.

The U.S. Government requires contractors on federal public works to obtain surety bonds to guarantee they will perform such contracts and pay certain subcontractors and suppliers.

For more information contact your insurance agent. Contractors who are unable to purchase a surety bond from an insurance company may qualify for the Small Business Administration's Surety Bond Guarantee Program. For information, visit
http://www.sba.gov/aboutsba/sbaprograms/osg/index.html

[13] www.ehow.com/bout_5295907_bonding-construction.html, "What is Bonding In Construction?", Emily Beach

The Miller Act (1935)

The Miller Act (1935) is a federal law that requires contractors performing public works projects to produce a performance bond and a payment bond in any contracts that exceed $100,000. The
Miller Act was created to protect the subcontractors and the suppliers when dealing with projects owned by the federal government. The surety company that issues the bonds must be registered as a qualified surety by the United States Department of Treasury, which is issued on a yearly cycle. For more information, visit: http://suretyinfo.org/?s=miller

The Construction Industry Payment Protection Act was an amendment to The Miller Act (1935) that changed the payment bond limit requirement so that the payment bond is equal to the performance bond amount. The Act also prohibits contractors from requiring subcontractors to waive their payment bond rights in the subcontract documents and permits a subcontractor to send a contractor payment bond claim notification by any means of notification that can be verified by a third party. This includes registered mail, which was previously the only legal notification, as well as commercial overnight services.

Bid Bond

A bid bond informs the owner of the project that the contractor will honor his/her stated bid and sign all contracts if he/she is awarded the project.

Performance Bond

A performance bond assures the owner of the project that the contractor will complete the job in compliance with the stated price, time frame, and any other specifications listed in the contract. If the contractor fails to complete the project according to the terms, the surety company typically has three choices: it may bring in its own contractors; it may hire a new contractor; or it may allow the owner of the project to choose its own contractor.

Payment Bond

Payment bonds are used to protect suppliers and subcontractors in case the main contractor does not pay them.

Section 8: ESTIMATING & BIDDING

Bidding

The ability to obtain profitable work separates successful contractors from weaker competitors and the way to achieve this is by successful bidding. A **bid** is a formal offer to provide services and/or items within a specified time for a specific price.

In regards to the public works construction protocol, there are two types of bids an open bid and a closed bid. An open bid (also referred to as a hard bid) is the most common type of competitive bidding, where all competitors use the same proposal form provided with bidding documents. The price quoted in the offer is final, no adjustments to the bid are allowed. Open bids are opened and read publicly. There is no standardized form for closed bids. Closed bids are not read publicly, and allow contractors to submit other documentation with the offer. The owners of the project are given the option to interview and negotiate a final price with the contractors in a closed bid.

Competitive bidding usually begins with an "invitation" to bid. In the private sector, the bidding procedure can be somewhat informal, while in public works sector the bidding is formal with specific bidding procedures. Pre-bid meetings may be held by the project owners to explain the project to potential bidders. This process can help explain procedures or specifications for the project. Private sector owners do not have to advertise for bids and can determine when and who they want to bid. Most jurisdictions have a system for distributing information on pending public projects, check with your local jurisdiction for these procedures.

By law, public works projects are required to be advertised for bids. A contractor must be a licensed public works contractor in Idaho to bid on these jobs, for more information please refer to the Idaho Public Works Statutes and Rules. Most advertisements are found in the classified sections of newspapers and trade magazines. The ad will include a project description, location, name of the authorizing agency, where and when to apply. An approximate cost as well as required fees and deposits must also be included. Federal agency notices are posted in public areas.

The final step in the process is to determine whether or not the contractor wants the job. Bidding lower than anybody else can easily determine job acquisition however the cost of doing this has to be determined. Can the contractor fulfill the obligations and make a profit? In deciding on whether to take the time and energy involved in preparing an estimate, the job must be carefully analyzed.

The following are items that should be considered when deciding to bid a job:

- **Work Involved**. What is required and expected by the owner?
- **Qualifications.** Does the contractor have the experience, ability, and cash flow to complete the job? Can the contractor legally perform the necessary work?
- **Schedule**. Does the job in question interfere with any other jobs that are scheduled? Can the job be completed in the timeframe specified?
- **Cost**. In many cases, an owner has an unrealistic idea of what the job will cost, so discussing a rough estimate of the total charges may extinguish some of these questions. Also the customer should be made aware that the "rough" quote is just preliminary and nonbinding.
- **Job Site**. Where is the job located? How much travel time will be involved? What utilities are available at the site? What are the local laws or covenants? Waste and debris disposal, parking, signage, etc.?
- **Risk** – Who covers? Lump sum vs. cost plus?

Once everything is evaluated the contractor must notify the customer if the job is beyond their abilities, and possibly recommend someone who is capable of completing the job. If the contractor decides to accept the job then an initial job schedule and estimate must be prepared.

Plans and Specifications

Plans and specifications are legal and informational records that cover all aspects of the proposed project. These documents are normally prepared by engineers, architects, and lawyers.

The following items are usually included in the plans and specifications:

- **General conditions**. These outline the responsibilities of all parties involved.
- **Supplementary conditions**. These are amendments to the general conditions for the project.
- **Drawings/plans**. These illustrate dimensions, quantity, size, and location of each item. Depending on the size of the job, separate drawings may be completed for the architectural, electrical, mechanical, and plumbing portions. Drawings are a necessity for completing a detailed estimate.
- **Specifications.** The specifications describe the drawings/plans, specific building requirements, and include the materials needed and quality of workmanship desired.

Job Schedule

Scheduling has to be taken into consideration when preparing an estimate. Everything that increases the amount of time to complete a job adds to the cost of the job, and each item that shortens the time required can decrease costs. The scheduling of and length of time needs to be addressed since some work must be finished prior to beginning other work. Combining tasks that can occur simultaneously can reduce overhead while increasing productivity.

Estimating

Estimating is the process of calculating all possible expenses that might incur while completing a job. Accurate estimating is the most important tool in creating a bid and controlling costs.

There are several organizations that are available to aid in the process of estimating. The American Society of Professional Estimators (ASPE) and the American Association of Cost Engineers (AACE) continually work to establish standardized guidelines for estimating. Technology such as computer software and CAD, has helped to improve accuracy, consistency, and speed in the estimating process. Large companies often employ professional estimators who specialize in different trades, like plumbing, mechanical, and electrical.

Planning is the first step in estimating. This planning should begin with a detailed checklist of everything the job might require. Using a standard checklist can be beneficial to begin with and as new projects are started the checklist can be updated. By using a standard checklist the margin for forgetting something is greatly reduced. Also by maintaining a job checklist the contractor is allowed to compare jobs to other jobs.

Estimation Methods

There are many different estimation methods; a contractor should base his/her approach to estimating on his/her personal experience, owner requirements, and the size of the job. A few commonly used forms of estimating include the conceptual, preliminary, and detailed estimates. Labor, materials, equipment pricing, general expenses, and markup are common elements of all three of the previously listed types of estimating.

Conceptual (Rough) Estimate

Conceptual (rough) estimating is the practice of figuring an approximate cost or time schedule for a job before all the job details are known. This estimate compares the job's anticipated costs with its proposed value. Often this estimate is based solely on the customer's idea of what they want. Rough estimating requires the contractor to not only figure what is seen but to understand what is not seen or may only be implied. A rough estimate helps determine if it's practical to proceed with the job.

Preliminary Estimate

Preliminary estimate is an estimate made in an early stage of the design work, prior to receipt of firm bids. Information is taken from previous jobs and manipulated to reflect the current pricing and put into this type of estimate. One or more of the following methods can be used in preparing both preliminary and conceptual estimates:

- Price per unit method
- Price per unit area method
- Price per unit volume method
- Approximate quantities method

Detailed Estimate

A detailed estimate is a prediction of construction cost prepared on the basis of a detailed analysis of materials and labor for all items of work. This is the most time consuming estimate because of the detail and accuracy involved. A contractor must understand the project documents and the scope of the work before completing a detailed estimate. There are six parts to a detailed estimate:

1. **Quantity Survey/Takeoff** is the base of a detailed estimate which can only be created from the full design of the project. It requires that the quantity of work be determined from drawing and written specifications. Quantity takeoff is a system of calculating the work of a project in the form of a sequence of calculated items based on a uniform set of measurement rules; a detailed analysis of each part of the project created by itemizing the drawings and specs into corresponding work items. The five basic categories of measurement units used in a quantity survey/takeoff are:

    a. Number – no., each, ea.
    b. Length – lin.ft. (metric – m)
    c. Weight – lbs., ton (metric – kg, t)
    d. Area – sq. ft. (metric – m2)
    e. Volume – cu. yd. (metric – m3)

During this process the contractor must also figure equipment needs, the order of operations, the size of the crew required, and physical constraints at the jobsite.

2. **Quantity Summary**
    The quantity survey/takeoff is sorted and listed in a standard format that is used to ease the pricing process. The Construction Specifications Institute (CSI) has created a standard coding system (MasterFormat™) which categorizes commercial construction specifications. The National Association of Home Builders (NAHB) has also developed a coding system.

3. **Quantity Summary Pricing**
    The pricing for required labor, materials, and equipment is entered against the quantities listed on the quantity summary, to determine the estimated cost of the contractor's work.

    a. **Labor pricing** includes both direct and indirect labor costs. Also when estimating wages is the project based on standard wages, union wages, or federal wages. Adjustments will need to be made for these circumstances. Direct labor costs are hourly wages paid to an employee while working on a construction project. Indirect labor costs are the other costs involved like taxes, unemployment and health insurance, workers' compensation, vacation pay, sick pay, etc.

    b. **Materials pricing** includes the total costs of all materials required for the project. These costs should include the cost of delivery and storage of the items needed. Estimates for materials are supplied by the suppliers and need to be in writing with terms verified so that there are no changes when the project begins.

c. **Equipment pricing** includes assigning a cost to all tools and equipment that is needed for the project including, rentals, leases, or purchases that will be done. These costs need to also include the actual cost of the item, delivery, fuel, maintenance, and anything else that might be necessary to use or operate the equipment. Storage and insurance should also be included.

4. Subcontractors Pricing

Subcontractors are sometimes hired for specific areas of the project, for example electrical or plumbing. Subcontractors will follow the same steps and submit their detailed estimate.

5. General Expenses Pricing

Projected allowance, contingency, and overhead costs are determined and added to the estimate.

a. **General overhead** includes all operating costs not directly associated to a project. General overhead include, but are not limited to:

1. Office mortgage or rent, furniture, equipment, utilities, supplies, and maintenance
2. Administrative wages (office staff)
3. Bookkeeping, accounting and legal fees
4. General Liability Insurance
5. Any required bonding
6. Advertising
7. Equipment costs (that are not charged to any specific project)
8. Travel expenses

General overhead costs must be included in every estimate and are normally shown as a percentage of the project revenue prediction. This percentage is easily calculated by dividing total general overhead by the project's forecasted income (ex: $50,000/$500,000 = .10 or 10%).

b. **Project overhead** includes all costs associated with a project (excluding labor). Project overhead costs include, but are not limited to:

1. Jobsite utilities (electricity, water, portable bathrooms, etc.)
2. Finance costs
3. Lighting, signing, and fencing
4. Bonds and insurance (job specific)
5. project management wages
6. Permit cost

Like general overhead, project overhead costs are normally shown as a percentage. See example above.

c. **Contingency** is based on the unexpected, such as weather, labor, or equipment issues. It is normally added to the estimate before profit mark-up in the form of a percentage (5% to 20% depending on the job). Any contingency funds that are left over and the end of construction are added to the profit.

d. An **allowance** is money that is allocated to highly specialized work that might occur or is required during the project.

6. Summary Total

The estimated costs are summed up, the contractor's profit mark-up is added, and the remaining bid documents are evaluated and completed. Depending on the location of the job, an area modification factor may need to be added.

a. **Area Modification Factors** are percentages based on completed project costs in the different areas of the United States.

b. Costs are higher in some cities and states than others and taking these costs into factor may improve the accuracy of the estimate. Area modification factors include labor, material and equipment costs, labor productivity, climate, job conditions, and mark-up.

c. **Mark-up** is the percentage of total project costs added to the estimate to ensure the contractor earns a profit. Profit is the remaining income after paying expenses. When figuring the mark-up percentage the following items should be considered:

1. Size, length and difficulty of the project
2. Backlog
3. Competition
4. Contractor/client relationship
5. Location of the project
6. Economic conditions

Verifying Accuracy

Using standard forms and procedures in the estimating process can reduce the risk for error and help promote accuracy. It is very important to check and recheck all items.

For more information contact the following resources:

The Construction Specifications Institute
1-800-689-2900
www.csinet.org

Associated General Contractors of America
1-800-242-1767
www.agc.org

American Society of Professional Estimators
1-888-378-6283
www.aspenational.com

National Association of Home Builders
1-800-368-5242
www.nahb.org

American Institute of Architects
1-800-242-3837
www.aia.org

American Association of Cost Engineers
1-800-858-2678
www.aacei.org

Section 9: CONTRACTS

A **contract** is an agreement between two or more parties creating specified obligations that are enforceable by law. To be considered legally valid, a contract must contain the following:

- Offer and Acceptance
  There must be a clear or definite offer to contract and an unqualified acceptance.
- Consideration
  Each party has to promise or provide something of value to the other.
- Parties
  Anyone entering into a contract must be an adult of sound mind. A contract shall state all parties involved, including their names and their addresses (if applicable).
- Mutuality of Obligation
  A "Meeting of the Minds" – this is mutual understanding and assent to the expression of their agreement. The parties must agree to the same thing, in the same sense, at the same time.
- Legal Purpose or Objective
  Contracts can have any type of subject; however a court will not enforce a contract that covers illegal acts.

Contract Legalities

Included with this section are excerpts from Idaho Statutes in regards to construction contracts.

TITLE 29
CONTRACTS
CHAPTER 1
GENERAL PROVISIONS RELATING TO CONTRACTS

29-115. Construction contracts. (1) This section is applicable with respect to all contracts entered into on or after July 1, 1990, between owners and original contractors relating to the construction of any private work of improvement.

(2) In any contract relating to the construction of any private work of improvement, the retention proceeds withheld by the owner from the original contractor or by the original contractor from any subcontractor from any payment shall not exceed five percent (5%) of the payment and in no event shall the total retention withheld exceed five percent (5%) of the contract price. However, the five percent (5%) maximum that may be withheld does not apply if the original contractor or the subcontractor fails to provide a performance bond issued by a surety acceptable to the owner or original contractor if requested to do so by the owner or original contractor respectively. The five percent (5%) maximum shall not apply to any contract for the performance of a private work of improvement to residential real property consisting of one (1) to four (4) units occupied or to be occupied by the owner.

(3) Within thirty-five (35) days from the date on which the work of improvement is substantially complete, as mutually agreed to by the parties to the contract, the retention withheld by the owner shall be reduced to the lesser of one hundred fifty percent (150%) of the estimated value of work yet to be completed in accordance with the contract or the retention then withheld by the owner, not to exceed five percent (5%) of the contract price.

Within thirty-five (35) days from the date of final completion of the work of improvement, the retention withheld by the owner shall be released, except in the event of a dispute between the owner and the original contractor, the owner may withhold from the final retention payment an amount not to exceed one hundred fifty percent (150%) of the estimated value of the issue in dispute. The owner may condition

the final release of the retention upon receipt of satisfactory lien waivers from all persons with actual or potential lien claims on the work of improvement.
(4) Subject to subsection (5) of this section, within ten (10) days from the time that all or any portion of the retention proceeds are received by the original contractor, the original contractor shall pay each of its subcontractors from whom retention has been withheld, each subcontractor's share of the retention received. However, if a retention payment received by the original contractor is specifically designated for a particular subcontractor, payment of the retention shall be made to the designated subcontractor.
(5) The original contractor shall not be required to pay the retention to a subcontractor if a bona fide dispute exists between the subcontractor and the original contractor. The amount withheld from the retention payment shall not exceed one hundred fifty percent (150%) of the estimated value of the work yet to be completed or issue in dispute.
(6) It shall be against public policy for any party to require any other party to waive any provision of this statute.

In addition to the Idaho Statutes on construction contracts there is also the Statute of Frauds. This statute legally requires certain agreements to be in writing.

TITLE 9
EVIDENCE
CHAPTER 5
INDISPENSABLE EVIDENCE -- STATUTE OF FRAUDS

9-505. certain agreements to be in writing. In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. Evidence, therefore, of the agreement cannot be received without the writing or secondary evidence of its contents:
1. An agreement that by its terms is not to be performed within a year from the making thereof.
2. A special promise to answer for the debt, default or miscarriage of another, except in the cases provided for in section 9-506, Idaho Code.
3. An agreement made upon consideration of marriage, other than a mutual promise to marry.
4. An agreement for the leasing, for a longer period than one (1) year, or for the sale, of real property, or of an interest therein, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent be in writing, subscribed by the party sought to be charged.
5. A promise or commitment to lend money or to grant or extend credit in an original principal amount of fifty thousand dollars ($50,000) or more, made by a person or entity engaged in the business of lending money or extending credit.

The Idaho Code is the property of the state of Idaho, and is copyrighted by Idaho law, I.C. § 9-352. According to Idaho law, any person who reproduces or distributes the Idaho Code for commercial purposes in violation of the provisions of this statute shall be deemed to be an infringer of the state of Idaho's copyright.

Types of Construction Contracts

Construction contracts are completed to protect the owner and the contractor during the construction process. There are several different contracts for the varying stages of construction. Listed below are some commonly used contracts:

- General Contract for Construction
  This contract states the responsibilities, rights, and relationships of the owner, contractor, and architect, usually one of the first contracts created for a project.

- Change Order
  Change orders are completed when changes in the work occur that is different from the original contract.

- Lump Sum and Unit Price (Fixed Price)
  Lump sum contracts state the project as a whole and the total cost. Contractors bill for the entire project not parts of it. When the project is complete the owner must pay the entire sum unless a prior payment arrangement was made.
  If the contract is broken down into sections, where each section is billed separately, and each section is identified with its own cost, it is a unit price contract. Both lump sum and unit price contracts set a final price for the project, regardless of what the actual cost to the contractor is.

- Design and Build (Turnkey)
  Although infrequently used, the design and build contract makes the contractor responsible for designing and building the project. This is typically done by the contractor partnering with an architect or other resources. The contractor also chooses what materials will be used.

- Cost Plus
  Cost plus contracts include cost plus fixed fee and fix percentage and cost plus variable percentage. Under cost fixed plus fixed fee contracts, the contractor is reimbursed his costs and is paid a fixed fee for the project.[14] Another example of this is the cost plus variable percentage contract which requires the owner to pay all costs but gives incentives to the contractor if the costs are lower than expected. Completion deadlines on all cost plus contracts are set.

- Incentive and Guaranteed Maximum
  Fixed price incentive contracts happen when the contractor is in no doubt about costs and timelines required for the project. Cost reimbursement incentive contracts establish standards for target costs and fees and the minimum and maximum fees. In a guaranteed maximum contract all costs and the project are clearly stated and the contractor takes the risk of completing the job on time and within the budget.

- Time and Materials
  This type of contract is where the contractor charges an hourly or job rate plus the expense of materials.

Common Parts of Construction Contracts

There are several items which all construction contracts should include; the following list includes the basics:

- Names and addresses of the owners and contractors
- Property information
- Description of the project; scope of work
- Dates of commencement and completion
- Any drawings or specifications
- Price
- Method of payment
- Changed work/additional work provision
- The offer

Other elements that may be included in a construction contract are:

1. Bidding Documents
   Primarily used for public jobs and describe the project and the procedures for bidding and awarding.
2. Insurance and Bonding
   What insurance and bonding is required on the project to protect the contractor and the owner from any loss or default.

[14] Rebekah Smith, eHow Contributor, www.ehow.com, Types of Construction Service Contracts

3. General Conditions
   Conditions to the contract that list specifically what the rights and responsibilities are for all parties involved.
4. Plans/Blueprints
5. Specifications
   A detailed description of the blueprints/plans that includes what types and quantities of materials need to be used.
6. Timing incentives/penalties
   A listing of what, if any, penalties will be assessed if the project is not completed by the initial date set, or what incentive, if any, the contractor will receive for completing before the stated completion date.
7. Site Conditions
   An outline of how the jobsite should be kept clean and also what happens if issues arise with the condition of the website.
8. Permits/Licenses
   The contract should specify who is responsible for obtaining and paying for the necessary permits and licenses.
9. Retainer
   If there is a retainer involved the contract should state how much it is, who will hold it, and how it will be dispersed.
10. Certificate of Occupancy
11. Termination Clause
    A clause that stipulates an owner or contractor may terminate the agreement under specific circumstances, for example:
    - The owner fails to pay
    - The contractor's work is unsatisfactory or is not being done in a timely manner

Breach of Contract

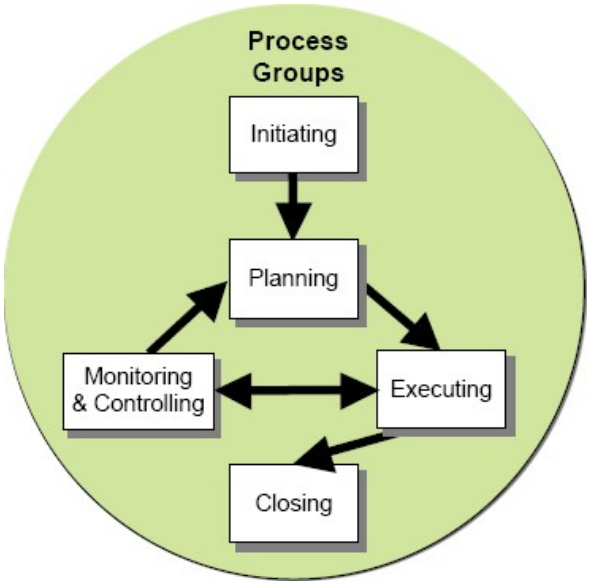
Breach of contract is defined as violation of a contractual obligation by failing to perform any term of a contract without a legitimate legal excuse. A lawsuit for a breach of contract is a civil action and the remedies awarded are intended to place the non-breaching party in the position they would be in if not for the breach.

Section 10: PROJECT MANAGEMENT IN CONSTRUCTION

Project management is the discipline of planning, organizing, securing, and managing resources to achieve specific goals. A project is a temporary endeavor with a defined beginning and end (usually time-constrained, and often constrained by funding or deliverables),[15] undertaken to meet unique goals and objectives,[16] typically to bring about beneficial change or added value. The temporary nature of projects stands in contrast with business as usual (or operations),[17] which are repetitive permanent, or semi-permanent functional activities to produce products or services.

There are several steps to project management:

1. initiation & estimating
2. planning
3. monitoring & controlling
4. executing
5. closing



[15] Chatfield, Carl. "A short course in project management". Microsoft. http://office.microsoft.com/en-us/project/HA102354821033.aspx

[16] *The Definition Guide to Project Management*. Nokes, Sebastian. 2nd Ed.n. London (Financial Times/Prentice Hall): 2007. ISBN 978 0 273 71097 4

[17] Paul C. Dinsmore et al (2005) *The right projects done right!* John Wiley and Sons, 2005. ISBN 0-7879-7113-8. p.35 and further.

Initiation and Estimating

The initiation process determines the nature and scope of the project.[18] The key project controls needed here are an understanding of the business environment and making sure that all necessary controls are incorporated into the project. Any issues found in this step should be addressed and fixed before proceeding. The initiation step should include a plan that covers the following areas:

- analyzing the business needs/requirements in measurable goals
- reviewing of the current operations
- financial analysis of the costs and benefits including a budget
- stakeholder analysis
  A stakeholder is any person or organization, who can be positively or negatively impacted by, or cause an impact on the actions of a company, government, or organization.
- project definition

The information on estimating is covered in the section "Estimating and Bidding." Please refer to that section for more information.

Planning

Project planning is the process of defining the appropriate methods for completing a project. At this step it is important to determine the order in which different jobs will be performed, how long it will take to complete each job (scheduling), and the location of each job. As with the initiation step, a failure to adequately plan greatly reduces the project's chances of successfully accomplishing its goals.

Project planning generally consists of:[19]

- determining how to plan;
- developing scope statement;
- selecting the planning team;
- identifying deliverables and creating the work breakdown structure;
- identifying the activities needed to complete those deliverables and networking the activities in their logical sequence;
- estimating the resource requirements for the activities;
- estimating time and cost for activities;
- developing the schedule;
- developing the budget;
- risk planning;
- gaining formal approval to begin work.

Additional processes, such as planning for communications, management, identifying roles and responsibilities, determining what to purchase for the project are advisable.

Scheduling

A schedule consists of a list of a project's elements with intended start and finish dates. A chart should be used to see what work needs to be done and scheduling the amount of time it will take to complete. It is imperative to schedule each

[18] Peter Nathan, Gerald Everett Jones (2003). *PMP certification for dummies*. p.63
[19] Harold Kerzner (2003). Project Management: A Systems Approach to Planning, Scheduling, and Controlling (8th Ed. ed.). Wiley. ISBN 0-471-22577-0

task in the proper order, as each task is related to another. This process will determine when labor, materials, and equipment should be utilized.

The schedule must be constantly updated due to the ever-changing conditions in construction. Several schedules will be used – an overall time schedule for the contractor and owner; a detailed time schedule for the project manager; and explicit schedules for the foremen, expediters and subcontractors.

Planning and scheduling that is done consistently and effectively can provide numerous advantages such as consistent use of materials, limiting overtime and inactivity, better cash flow, and decreasing overall project time. The following items must also be taken into account:

- the amount of time required for a specific task. The contractor needs to designate a unit of time (shift, hours, days, etc.) and be consistent with it throughout the schedule.
- the time scheduled may not always be accurate. There are many variables in a construction project that can alter the progress (weather, equipment failure, etc.). Contingency time should be allowed.
- the earliest start date and latest start date should be determined.
- float (slack) time – the amount of time that a task can be delayed without causing a delay to subsequent tasks or the completion date.

Two common items used in the construction industry for planning and scheduling are the CPM – critical path method and the Gantt chart.

Critical Path Method (CPM)

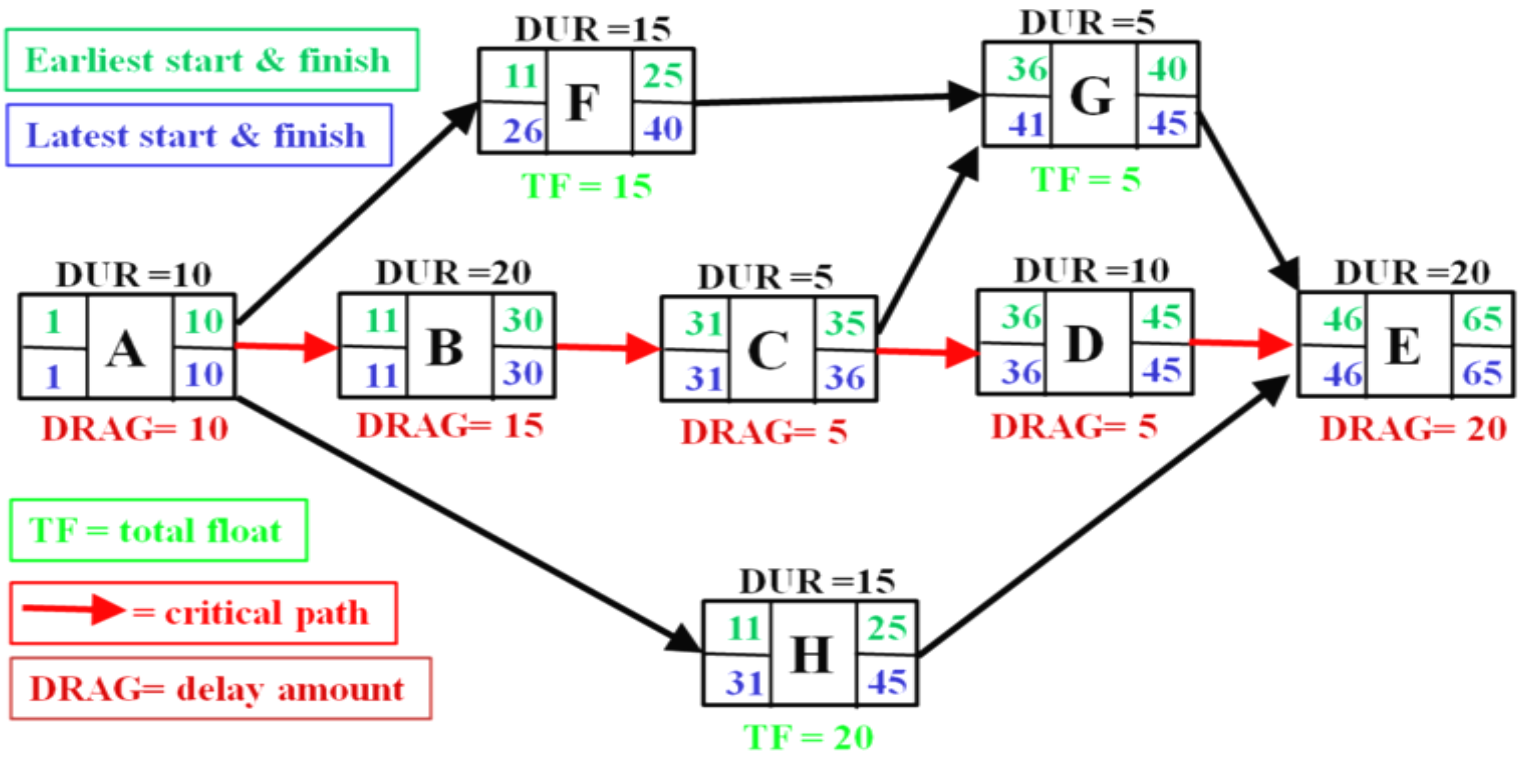
The critical path method (CPM) is an algorithm for scheduling a set of project activities.[20] It is an important tool for effective project management and is commonly used with all forms of projects, including construction, aerospace and defense, software development, research projects, product development, etc.

The CPM includes the following:

1. A list of all activities required to complete the project (typically categorized within a work breakdown structure),
2. The time (duration) that each activity will take to complete, and
3. The dependencies between the activities.

Using these values, CPM calculates the longest path of planned activities to the end of the project, and the earliest and latest that each task can start and finish without making the project longer. This process determines which tasks are "critical" (longest path) and which have "float/slack time" (can be delayed). In project management, a critical path is the sequence of project activities which add up to the longest overall duration. This determines the shortest time possible to complete the project.

[20] Kelley, James. *Critical Path Planning and Scheduling: Mathematical Basis*. Operations Research, Vol. 9, No. 3, May–June, 1961


Earliest start & finish
Latest start & finish
DUR =15
11
F
25
26
40
TF = 15
DUR =5
36
G
40
41
45
TF = 5
DUR =10
1
A
10
1
10
DRAG= 10
DUR =20
11
B
30
11
30
DRAG= 15
DUR =5
31
C
35
31
36
DRAG= 5
DUR =10
36
D
45
36
45
DRAG= 5
DUR =20
46
E
65
46
65
DRAG= 20
TF = total float
= critical path
DRAG= delay amount
DUR =15
11
H
25
31
45
TF = 20

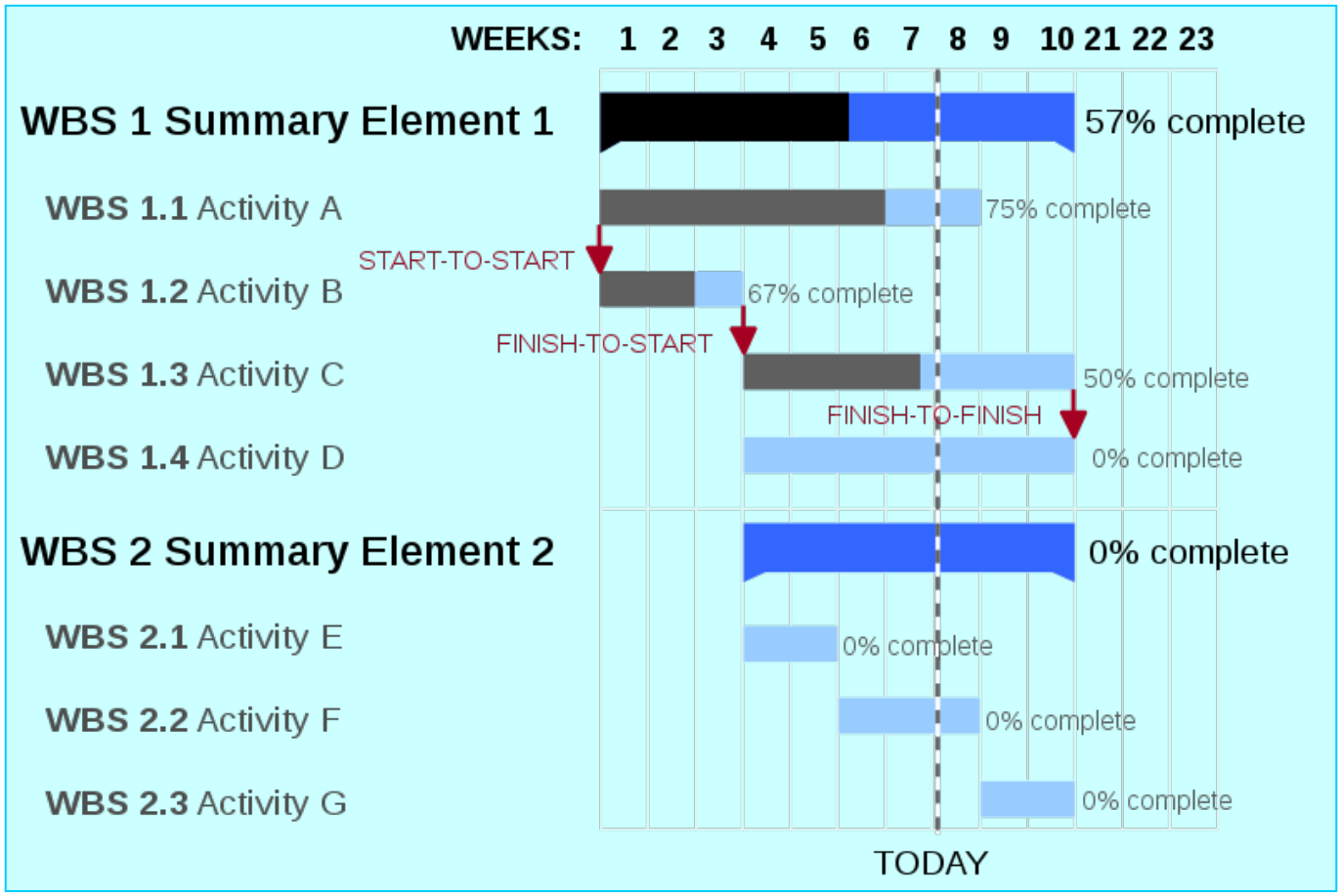
Sample CPM Legend

Table 1 DBS Office Project: project details for substructure works			
Task code	TASKS (ACTIVITIES)	(days) (D)	Succeeding Tasks
P1	Site Clearance	2	P2
P3	Set up & establish	5	P4
P2	Fencing	3	P4
P4	Setting out	2	C1
C1	Reduced level excavation	1	C2, C11
C2	Trench excavation 1	1	C3, C4
C3	Concrete strip ftg1	1	C5
C4	Trench excavation 2	2	C6, C7
C7	Trench excavation 3	1	C9
C5	Fdn brickwork1	2	C8
C6	Concrete strip ftg2	3	C8
C9	Concrete strip ftg3	1	C10
C8	Fdn brickwork 2	3	C10
C11	Order materials & equip for surface bed construction	5	C12
C10	Fdn brickwork complete	2	C12
C12	Rip & compact	2	END

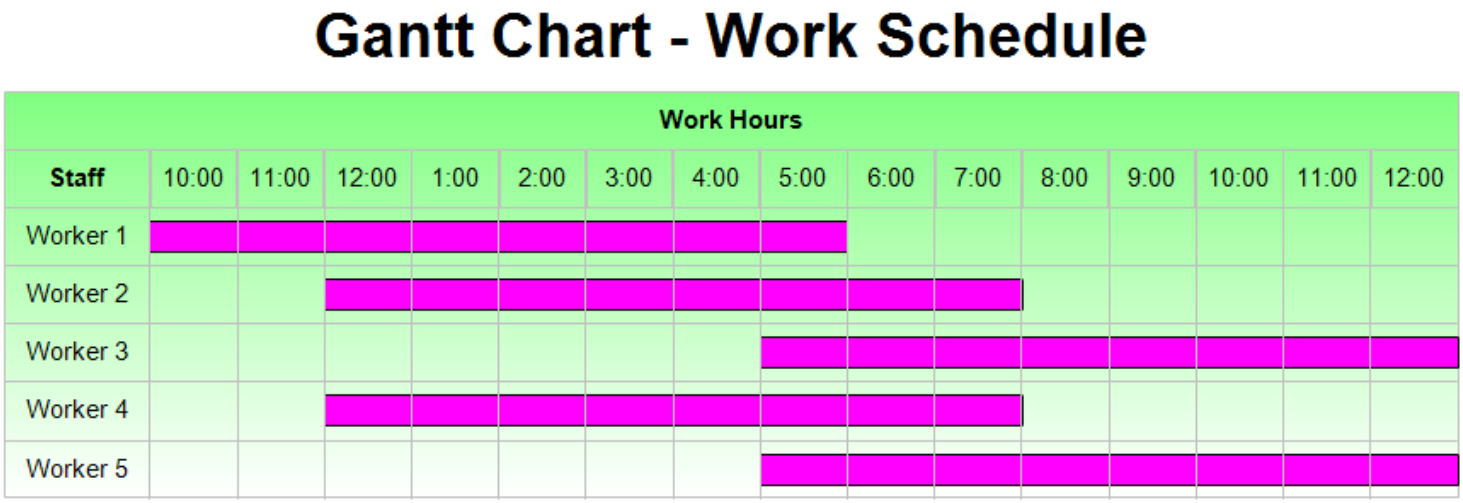
Gantt Chart

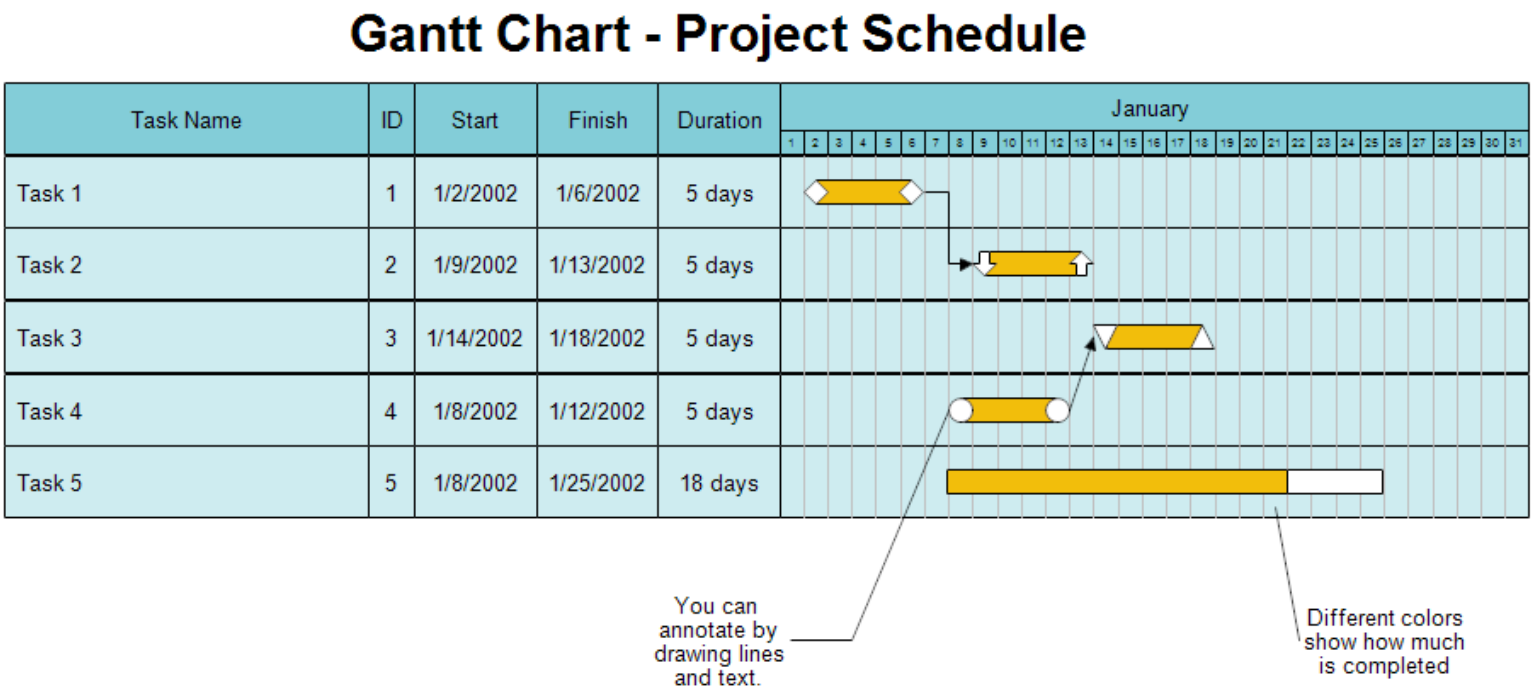
A Gantt chart is a type of bar chart that illustrates a project schedule. Gantt charts show the start and finish dates of the terminal elements and summary elements of a project. Terminal elements and summary elements comprise the work breakdown of the project. Some Gantt charts also show the dependency relationships between activities. Gantt charts can be used to show current schedule status using percent-complete shadings and a vertical "TODAY" line as shown below.

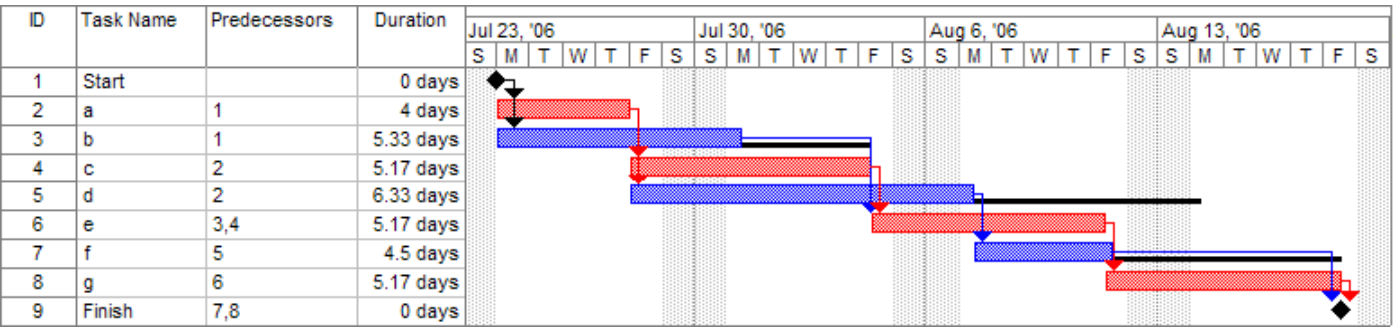
SAMPLE GANTT CHART



A Gantt Chart showing three kinds of schedule dependencies (in red) and percent complete indications. (See chart above)







A Gantt chart created using Microsoft Project (MSP). Note (1) the critical path is in red, (2) the slack is the black lines connected to non-critical activities, (3) since Saturday and Sunday are not work days and are thus excluded from the schedule, some bars on the Gantt chart are longer if they cut through a weekend.

Executing

Executing consists of the processes used to complete the work defined in the project plan to accomplish the project's requirements. Execution process involves coordinating people and resources, as well as integrating and performing the activities of the project in accordance with the project management plan. The deliverables are produced as outputs from the processes performed as defined in the project management plan and other frameworks that might be applicable to the type of project at hand.

Staffing

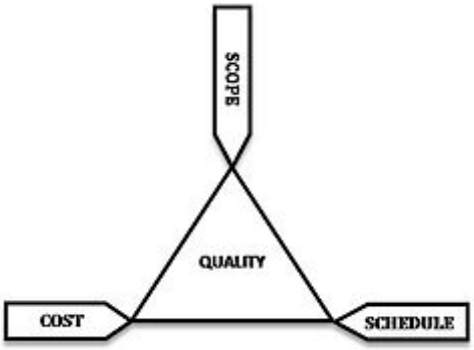
Staffing is a major component of project management and by choosing the right person for the job a contractor can increase the chances of a successful completion of a project. The number of people required for a job will depend on the size of the job; on a small project the contractor may perform all or most of the tasks. On a large project, the contractor will need more people to ensure the project is completed on time. Project management personnel may include a(n):

1. **Owner's Representative** is a representative of the owner of a construction project. An owner's representative relays project information to and from the owner, but has no supervisory rights over workers.
2. **Construction (CM) or Project Manager (PM)** plans, directs, coordinates, and budgets a wide variety of construction projects, including building of all types of residential, commercial, and industrial structures, roads, bridges, wastewater treatment plants, and schools and hospitals. Construction managers may supervise an entire project or just part of one. They schedule and coordinate all design and construction processes, including the selection, hiring, and oversight of specialty trade contractors, such as carpentry, plumbing, or electrical, but they usually do not do any actual construction of the structure.
3. **Project Superintendent** coordinates field activities for a construction company. This is done by tracking the status of each activity and recording changes on a master schedule.
4. **Foreman** is the worker or tradesman who is in charge of a construction crew.
5. **Expediter** is one that is employed to ensure efficient movement of goods or supplies in a business. The expediter will continually update the PM or contractor as to the status of materials.

Monitoring and Controlling

Monitoring and controlling consists of those processes performed to observe project execution so that potential problems can be identified in a timely manner and corrective action can be taken, and when necessary, to control the execution of the project. Projects need to be performed and delivered under certain constraints.

These constraints have been listed as “scope, “time,” and “cost”[21], known as the “project management triangle”.



Cost Control

During the execution of a project, procedures for project control and record keeping become indispensable tools to managers and other participants in the construction process. These tools serve the dual purpose of recording the financial transactions that occur as well as giving managers an indication of the progress and problems associated with a project. The problems of project control are aptly summed up in an old definition of a project as "any collection of vaguely related activities that are ninety percent complete, over budget, and late."[22] The task of project control systems is to give a fair indication of the existence and the extent of such problems.

Keeping construction costs under control is essential for a contractor to show a profit, and for a project manager to be able to complete the project at or under budget.

Cost control is the process or activity on controlling costs associated with an activity, process, or company. Cost control typically includes (1) investigative procedures to detect variance of actual costs from budgeted costs, (2) diagnostics procedures to ascertain the cause(s) of variance, and (3) corrective procedures to effect realignment between actual and budgeted costs.

The *Construction Specifications Institute* (CSI) has established a standardized set of cost codes for contractors, as well as the Associated General Contractors of America (AGC). Material and labor costs must be constantly evaluated and compared with the cost estimates in the budget. Detailed expense records will help with future cost estimates and serve as validation for the present project’s costs.

Inventory control is another method of cost control. Inventory size should be minimal to optimize this control. A contractor’s best practice is to order materials using a purchase order system and have the materials delivered directly to the work site.

Quality Control and Safety during Construction

Quality control and safety represent increasingly important concerns for project managers. Defects or failures in constructed facilities can result in very large costs. Even with minor defects, re-construction may be required and facility

[21] Chatfield, Carl. "A short course in project management". Microsoft. http://office.microsoft.com/en-us/project/HA102354821033.aspx
[22] Cited in Zoll, Peter F., "Database Structures for Project Management," *Proceedings of the Seventh Conference on Electronic Computation*, ASCE, 1979

operations impaired. Increased costs and delays are the result. In the worst case, failures may cause personal injuries or fatalities. Accidents during the construction process can similarly result in personal injuries and large costs. Indirect costs of insurance, inspection, and regulation are increasing rapidly due to these increased direct costs. Good project managers try to ensure that the job is done right the first time and that no major accidents occur on the project.

As with cost control, the most important decisions regarding the quality of a completed facility are made during the design and planning stages rather than during construction. It is during these preliminary stages that component configurations, material specifications, and functional performance are decided. Quality control during construction consists largely of insuring conformance to the original design and planning decisions.

While conformance to existing design decisions is the primary focus of quality control, there are exceptions to this rule. First, unforeseen circumstances, incorrect design decisions or changes desired by an owner in the facility function may require re-evaluation of design decisions during the course of construction. While these changes may be motivated by the concern for quality, they represent occasions for re-design with all the attendant objectives and constraints. As a second case, some designs rely upon informed and appropriate decision making during the construction process itself. For example, some tunneling methods make decisions about the amount of shoring required at different locations based upon observation of soil conditions during the tunneling process. Since such decisions are based on better information concerning actual site conditions, the facility design may be more cost effective as a result.[23]

With the attention to conformance as the measure of quality during the construction process, the specification of quality requirements in the design and contract documentation becomes extremely important. Quality requirements should be clear and verifiable, so that all parties in the project can understand the requirements for conformance.

Safety during the construction project is also influenced in large part by decisions made during the planning and design process. Some designs or construction plans are inherently difficult and dangerous to implement, whereas other, comparable plans may considerably reduce the possibility of accidents. For example, clear separation of traffic from construction zones during roadway rehabilitation can greatly reduce the possibility of accidental collisions. Beyond these design decisions, safety largely depends upon education, vigilance, and cooperation during the construction process. Workers should be constantly alert to the possibilities of accidents and avoid taken unnecessary risks.[24]

[23] http://pmbook.ce.cmu.edu/13_Quality_Control_and_Safety_During_Construction.html
[24] http://pmbook.ce.cmu.edu/13_Quality_Control_and_Safety_During_Construction.html

Closing

The final step of project management is completion. Completion (also known as closeout) takes place after each phase/job is completed to the extent that the owner can use that component for its planned function.

This phase consists of:[25]

- Project close: Finalize all activities across all of the process groups to formally close the project or a project phase
- Contract closure: Complete and settle each contract (including the resolution of any open items) and close each contract applicable to the project or project phase.

[25] PMI (2010). *A Guide to the Project Management Body of Knowledge* p.27-35

Section 11: SAFETY

Safety and Health Add Value…

Businesses spend $170 billion a year on costs associated with occupational injuries and illnesses -- expenditures that come straight out of company profits. But workplaces that establish safety and health management systems can reduce their injury and illness costs by 20 to 40 percent. In today's business environment, these costs can be the difference between operating in the black and running in the red.

Injuries and illnesses increase workers' compensation and retraining costs, absenteeism, and faulty product. They also decrease productivity, morale, and profits. Businesses operate more efficiently when they implement effective safety and health management systems. A Fortune Five Hundred company increased productivity by 13 percent, while a small, 50-person plant decreased faulty product and saved more than $265,000 with a strong safety and health program.

OSHA can help take the guesswork out of workplace safety and health by providing information and expertise to help businesses tailor solutions to meet their needs.

Establishing a Safe and Healthful Working Environment

Establishing a safe and healthful working environment requires every employer –large and small – and every worker to make safety and health a top priority. The entire work force – from the CEO to the most recent hire – must recognize that worker safety and health is central to the mission and key to the profitability of the American company.

OSHA’s job is to provide leadership and encouragement to workers and employers to take that responsibility seriously. OSHA is there to help employers and employees focus on reducing injuries, illnesses, and fatalities and to increase their commitment to improved safety and health.

OSHA can help small businesses and others through a variety of tools, including partnership, consultation, compliance assistance, education and training, outreach and plain language regulations.

Importance of Safety and Health

Safety is good business. An effective safety and health program can save $4 to $6 for every $1 invested. It’s the right thing to do, and doing it right pays off in lower costs, increased productivity, and higher employee morale.

As an employer, you have a duty to protect your workers from injury and illness on the job. Protecting workers makes good business sense. Accidents and injuries are more expensive than many realize. Costs mount up quickly. But substantial savings in workers’ compensation and lost workdays are possible when injuries and illnesses decline.

Federal Safety Regulations

The Construction Safety Act

The Construction Safety Act of 1969 (CSA) places restrictions on unsafe working conditions for federally funded construction contracts.

OSHA

The Occupational Safety and Health Act (OSH) was enacted to “assure safe and healthful working conditions for working men and women” OSH Act created the Occupational Safety and Health Administration (OSHA) at the federal level and provided that states could run their own safety and health programs as long as those programs were at least as effective as the federal program. Enforcement and administration of the OSH Act in states under federal jurisdiction is handled primarily by OSHA.

Workplace Poster Requirements for Small Business and Other Employers

All employers, regardless of the number of employees, are required to exhibit the OSHA poster, "Job Safety and Health, IT'S THE LAW!", at a location visible to all employees.

Employers with 11 or more employees are required to exhibit OSHA Form 300, *Log of Work-Related Injuries and Illnesses*.

Failure to display the required poster and Form 300 (if applicable), can result in a penalty of $1,000 for each violation. Specific documents establishing minimum safety standards for the construction industry are: 29 CFR 1904 *Recording and Reporting Occupational Injuries and Illnesses*; 29 CFR 1910, *Occupational Safety and Health Standards*; and, 29 CFR 1926, *Safety and Health Regulations for Construction*.

Posters, forms and information may be obtained from OSHA and the Idaho Industrial Commission.

Recordkeeping

OSHA-approved state plan states must adopt occupational injury and illness recording requirements that are substantially identical to the Federal OSHA requirements. Since each state plan's requirements may differ slightly, the Federal OSHA requirements are described below.

Records for employers with 10 or fewer employees. Employers with 10 or fewer employees at all times during the last calendar year do not need to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that records must be kept. However, all employers covered by the OSH Act must report to OSHA any workplace incident that results in a fatality or the hospitalization of three or more employees.

Records for employers in certain industries. If an employer's business is in an industry that is classified as low hazard, the employer does not need to keep records unless OSHA or the BLS asks them to do so in writing. The partial industry classification exemption applies to individual establishments. If a company has several establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt. Industries currently designated as low-hazard include:

- Automobile dealers
- Apparel and accessory stores
- Eating and drinking places
- Most finance, insurance, and real estate industries
- Certain service industries, such as personal and business services, medical and dental offices, and legal, educational, and membership organizations

Business establishments classified in agriculture, mining, construction, manufacturing, transportation, communication, electric, gas and sanitary services, or wholesale trade are not eligible for the partial industry classification exemption.

All other employers. Employers are required to use the Form 300 Log of Work-Related Injuries and Illnesses to classify work-related injuries and illnesses and to note the extent and severity of each case. When an incident occurs, the Log is used to record specific details about what happened and how it happened.

If the employer has more than one establishment or site, separate records for each physical location that is expected to remain in operation for one year or longer must be kept.

Employers are required to keep a separate Log (Form 300) and Summary of Work-Related Injuries and Illnesses (Form 300A) for each physical location that is expected to be in operation for one year or longer. The Injury and Illness Incident Report (Form 301) is filled out when a recordable work-related injury or illness has occurred. Together with the Form 300

and Form 300A, these forms help the employer and OSHA develop a picture of the extent and severity of work-related incidents.

Employers must record work-related injuries and illnesses that result in:

- Death
- Days away from work
- Restricted work activity or job transfer
- Medical treatment beyond first aid
- Loss of consciousness

Employers must record any significant work-related injuries and illnesses that are diagnosed by a physician or other licensed health care professional, such as any work-related case involving cancer, chronic irreversible disease, a fractured or cracked bone or a punctured eardrum.

Employers must record the following conditions when they are work-related:

- Any needle-stick injury or cut from a sharp object that is contaminated with another person's blood or other potentially infectious material
- Any case requiring an employee to be medically removed under the requirements of an OSHA health standard
- Work-related cases involving hearing loss under certain conditions
- Tuberculosis infection as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional after exposure to a known case of active tuberculosis

Employers do *not* have to record certain injury and illness incidents such as a visit to a doctor solely for observation and counseling or those requiring first aid treatment only. For more information see the full list of Non-recordable Injury and Illness Incidents.

Reporting

OSHA-approved state plan states must adopt occupational injury and illness reporting requirements that are substantially identical to the Federal OSHA requirements. Since each state plan's requirements may differ slightly, the Federal OSHA requirements are described below.

All employers must report any workplace incident to OSHA within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees. Employers must orally report the fatality/multiple hospitalization by telephone or in person to the Area OSHA office that is nearest to the site of the incident. Employers may also use the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

Compliance Assistance Available

The Department of Labor provides employers, workers, and others with clear and easy-to-access information and assistance on how to comply with the Occupational Safety and Health Act. Among the many resources available are:

- Compliance Assistance Quick Start: Provides introductory step-by-step instruction to Occupational Safety and Health Administration (OSHA) compliance assistance resources.
- OSHA eTools, eMatrix, Expert Advisors and v-Tools*:* Provides links to e-tools, PowerPoint® presentations, and CD-ROMs.
- Occupational Safety and Health Administration (OSHA) Compliance Information: Provides a portal to OSHA's compliance assistance resources.
- OSHA Compliance Frequently Asked Questions: Highlights topics and specific questions that are often asked of OSHA.

Additional compliance assistance, including explanatory brochures, fact sheets, and regulatory and interpretive materials, is available on the Compliance Assistance "By Law" Web page.

To help the public understand and apply its standards and regulations, OSHA provides a number of print and Web-based tools, including fact sheets, booklets, Expert Advisors, eTools, and Safety and Health Topics pages. OSHA has a compliance assistance section on its Web site that provides links to these materials. A variety of information is also available on OSHA's Publications Web site, including online publication order forms, the OSHA poster, and guidance on OSHA recordkeeping. Publications can also be ordered from the OSHA Publications Office at 1-202-693-1888.

Because states with OSHA-approved job safety and health programs adopt and enforce their own standards under state law, copies of these standards can be obtained from the individual states. Many are available through state Web sites, which are linked from OSHA's State Occupational Safety and Health Plans Web page.

Cooperative Programs. OSHA offers a number of opportunities for employers, employees, and organizations to work cooperatively with the Agency. OSHA's major cooperative programs are the Voluntary Protections Program (VPP), the Safety and Health Achievement Recognition Program (SHARP), OSHA Challenge, the Alliance Program, and the OSHA Strategic Partnership Program (OSPP). For further information on OSHA's cooperative programs, visit the Cooperative Programs section of OSHA's Web site.

Voluntary Protection Programs: The Voluntary Protection Programs (VPP) are aimed at extending worker protection beyond the minimum required by OSHA standards. The VPP is designed to:

- Recognize the outstanding achievements of those who have successfully incorporated comprehensive safety and health programs into their total management systems;
- Motivate others to achieve excellent safety and health results in the same outstanding way; and
- Establish a relationship between employers, employees, and OSHA that is based on cooperation rather than coercion.

An employer may apply for VPP at the nearest OSHA regional office. OSHA reviews an employer's VPP application and visits the worksite to verify that the safety and health program described is in effect at the site. All participants must send their injury information annually to their OSHA regional offices. Sites participating in the VPP are not scheduled for programmed inspections. However, OSHA handles any employee complaints, serious accidents/catastrophes, or fatalities according to routine procedures.

The VPP is available in states under federal jurisdiction. Some states operating OSHA-approved state plans have similar programs. Additionally, all OSHA-approved state plans that cover private-sector employees in the state operate similar programs. Interested companies in these states should contact the appropriate state agency for more information.

Safety and Health Achievement Recognition Program (SHARP): This program recognizes small employers who operate an exemplary safety and health management system. Employers who are accepted into SHARP are recognized as models for worksite safety and health. Upon receiving SHARP recognition, the worksite will be exempt from programmed inspections during the period that the SHARP certification is valid. To participate in SHARP, an employer must contact its state's Consultation Program and request a free consultation visit that involves a complete hazard identification survey.

OSHA Challenge: This program provides opportunities for employers to work with OSHA and qualified volunteers (Challenge Administrators) to develop safety and health management systems (SHMS) on par with VPP and SHARP. OSHA Challenge breaks down SHMS implementation in three stages. For each stage, the participants identify actions, documentation, and outcomes. Unique aspects of OSHA Challenge include: no application prerequisites for participants except for a letter of commitment stating that they will follow the program and strive for safety and health excellence; no time constraints to complete the stages, which allows participants to work at their own level and pace; and the use of Challenge Administrators experienced in SHMS to assist participants, which limits the OSHA resources needed to manage the program.

Alliance Program: Through the Alliance Program, OSHA works with businesses, trade and professional organizations, unions, educational institutions, and other government agencies. Alliance Program participants work with OSHA to leverage resources and expertise to help develop compliance assistance tools, training opportunities, and other information to help employers and employees prevent on-the-job injuries, illnesses, and fatalities. OSHA's Alliances with organizations in industries such as plastics, healthcare, maritime, chemical, construction, paper and telecommunications, among others, are working to address safety and health hazards with at-risk audiences, such as youth, immigrant workers, and small business.

Strategic Partnership Program: In this program, OSHA enters into an extended, voluntary, cooperative relationship with employers, associations, unions, and/or councils. Partnerships often cover multiple worksites, and in some instances, affect entire industries. Partner worksites may be very large, but most often they are small businesses averaging 50 or fewer employees. Strategic Partnerships are designed to encourage, assist, and recognize efforts to eliminate serious hazards and achieve a high level of worker safety and health. All Partnerships emphasize sustained efforts and continuing results beyond the typical three-year duration of the agreement.

Training and education: OSHA has more than 70 full-service field offices that offer a variety of informational services, such as publications, technical advice, audio-visual aids on workplace hazards, and lecturers for speaking engagements. Each of these field offices has an OSHA Compliance Assistance Specialist (CAS). CASs provide general information about OSHA standards and compliance assistance resources, and are available for seminars, workshops, and speaking events. CASs promote OSHA's cooperative programs and also encourage employers to take advantage of OSHA's training resources and the tools available on the OSHA Web site.

The OSHA Training Institute in Arlington Heights, Illinois, provides basic and advanced training and education in safety and health for federal and state compliance safety and health officers; state consultants; other federal agency personnel; and private sector employers, employees, and their representatives. Course topics include electrical hazards, machine guarding, ventilation, and ergonomics, among others. The OSHA Training Institute has partnered with other training and education institutes to conduct Training Institute courses. These Education Centers, which are located throughout the country, provide additional opportunities for the public to receive training on safety and health topics.

Consultation services: Consultation assistance is available to employers who want help in establishing and maintaining safe and healthful workplaces. Largely funded by OSHA, the service is available in every state and territory. It is provided at no cost to the employer. Primarily targeted toward smaller employers with more hazardous operations, the consultation service is delivered by state government agencies or universities employing professional safety and health consultants. On-site OSHA consultation assistance includes an opening conference with the employer to explain the ground rules for consultation, a walk through the workplace to identify specific hazards and to examine those aspects of the employer's safety and health program that relate to the scope of the visit, and a closing conference. Later, the consultant sends a report of findings and recommendations to the employer. Unlike OSHA's enforcement program, there are no citations or penalties issued.

This process begins with the employer's request for consultation, which must include a commitment to correct any serious safety and health hazards identified. The consultant will not report possible violations of OSHA standards to OSHA enforcement staff unless the employer fails or refuses to eliminate or control worker exposure to any identified serious hazard or imminent danger. Should this occur, OSHA may investigate and begin enforcement action. The employer must also agree to allow the consultant to confer freely with employees during the on-site visit.

Additional information about consultation assistance, including a directory of OSHA funded consultation projects, can be found on OSHA's Consultation Program Web page.

Information sources: Information about state plans, VPPs, consultation programs, and inspections can be obtained from the nearest OSHA regional or area office. Area offices are listed in local telephone directories under the U.S. Department of Labor. Contact information for regional and area offices, as well as state plans and consultation programs can also be found on the OSHA Web site.

OSHA's Office of Small Business Assistance administers OSHA's On-Site Consultation Program and serves as liaison and point of contact with the Agency for small businesses. OSHA offers many services designed to help small businesses and welcomes comments and suggestions from small business owners and their employees.

This informational booklet is intended to provide an overview of frequently used OSHA standards in the Construction industry. This publication does not itself alter or determine compliance responsibilities, which are set forth in OSHA standards themselves and the Occupational Safety and Health Act.

Employers and employees in the 27 states and territories that operate their own OSHA- approved workplace safety and health plans should check with their state safety and health agency. Their state may be enforcing standards and other procedures that, while “at least as effective as” federal standards, are not always identical to the federal requirements.

For more information on states with OSHA- approved state plans, please visit: www.osha. gov/dcsp/osp.

Material contained in this publication is in the public domain and may be reproduced, fully or partially, without permission. Source credit is requested but not required.

This information will be made available to sensory-impaired individuals upon request. Voice phone: (202) 693-1999;

teletypewriter (TTY) number: 1-877-889-5627.

Construction IndustryDigest

U.S. Department of Labor

Occupational Safety and Health Administration OSHA 2202-09R
2014

U.S. Department of Labor

Foreword

The Construction Industry Digest contains summaries of the most frequently used standards in the construction industry. The standards are presented alphabetically followed by the reference to the appropriate regulation. With few exceptions, standards in this digest are from *Title 29 of the Code of Federal Regulations (CFR)*, Part 1926. Remember, this booklet is only a digest of basic applicable standards and should not be considered as a complete substitute for any provisions of the *Occupational Safety and Health Act of 1970* (OSH Act), or for any standards issued under the OSH Act. The requirements discussed in this publication are summarized and abbreviated.
The actual source standards are referenced at the end of each topic discussed; consult the CFR for a more complete explanation of the specific standards listed.

General

Employers have the responsibility to provide a safe workplace. **Employers MUST provide their employees with a workplace that does not have serious hazards and follow all relevant OSHA safety and health standards**.

Employers must comply with specific standards. All employers in the construction industry must also have injury and illness prevention programs. Contractors and employers who do construction work must comply with standards in 29 CFR 1926. Subpart C, *General Safety and Health Provisions*, as well as other specific sections of these standards, include the responsibilities for each contractor/employer to initiate and maintain injury and illness prevention programs, provide for a competent person to conduct frequent and regular inspections, and instruct each employee to recognize and avoid unsafe conditions and know what regulations are applicable to the work environment. Employees must be provided training in a language and vocabulary they can understand.

OSHA Worksite Investigations

OSHA conducts on-site inspections of worksites to enforce the OSHA law that protects workers and their rights. Inspections are initiated without advance notice, conducted using on-site or telephone and facsimile investigations, and performed by highly trained compliance officers. Worksite inspections are conducted based on the following priorities:

- Imminent danger;
- A fatality or hospitalizations;
- Worker complaints and referrals;
- Targeted inspections – particular hazards, high injury rates; and
- Follow-up inspections.

Inspections are conducted without employers knowing when or where they will occur. The employer is not informed in advance that there will be an inspection, regardless of whether it is in response to a complaint or is a programmed inspection.

Frequently Used Standards in Construction

Access to Medical and Exposure Records

Each employer shall permit employees, their designated representatives, and OSHA direct access to employer-maintained exposure and medical records. The standard limits access only to those employees who are, have been (including former employees), or will be exposed to toxic substances or harmful physical agents. **1910.1020 made applicable to construction by 1926.33**

Each employer must preserve and maintain accurate medical and exposure records for each employee. Exposure records and data analyses based on them are to be kept for 30 years. Medical records are to be kept for at least the duration of employment plus 30 years. Background data for exposure records such as laboratory reports and work

sheets need to be kept for only 1 year. **1910.1020(b)(3), .1020(d)(1)(i), and .1020(d)(1)(ii)**

Records of employees who have worked for less than 1 year need not be retained after employment if they are provided to the employee upon the termination of employment. First-aid records of one-time treatment need not be retained for any specified period. **1910.1020(d)(1)(i)(B) and (C)**

Aerial Lifts

Aerial lifts, powered or manual, include, but are not limited to, the following types of vehicle- mounted aerial devices used to elevate personnel to jobsites above ground: extensible boom platforms, aerial ladders, articulating boom platforms, and vertical towers. **1926.453(a)(1)**

When operating aerial lifts, employers must ensure that employees are

- Trained,
- Authorized,
- Setting brakes,
- Positioning outriggers on pads or a solid surface,
- Not exceeding boom and basket load limits,
- Attached to the boom or basket with a restraint device or personal fall arrest system,
- Standing firmly on the floor of the basket,
- Not climbing on the edge of the basket or using ladders, planks, or other devices for a work position. **1926.453(b) and 1926.454**

In addition, manufacturers (or the equivalent, such as a nationally recognized testing laboratory) must certify in writing that all modifications to aerial lifts conform to applicable OSHA and ANSI A92.2-1969 provisions, and are at least as safe as the equipment was before modification. **1926.453(a)(2)**

Air Tools

Pneumatic power tools shall be secured to the hose in a positive manner to prevent accidental disconnection. **1926.302(b)(1)**

Safety clips or retainers shall be securely installed and maintained on pneumatic impact tools to prevent attachments from being accidentally expelled. **1926.302(b)(2)**

The manufacturer's safe operating pressure for all fittings shall not be exceeded. **1926.302(b)(5)**

All hoses exceeding 1/2-inch (1.3-centimeters) inside diameter shall have a safety device at the source of supply or branch line to reduce pressure in case of hose failure. **1926.302(b)(7)**

Asbestos

Each employer who has a workplace or work operation where exposure monitoring is required must perform monitoring to determine accurately the airborne concentrations of asbestos to which employees may be exposed. **1926.1101(f)(1)(i)**

Employers also must ensure that no employee is exposed to an airborne concentration of asbestos in excess of 0.1 fiber per cubic centimeter of air (f/ cc) as an 8-hour time-weighted average (TWA). **1926.1101(c)(1)**

In addition, employers must ensure that no employee is exposed to an airborne concentration of asbestos in excess of 1 f/cc as averaged over a sampling period of 30 minutes. **1926.1101(c)(2)**

Respirators must be used during (1) all Class I asbestos jobs; (2) all Class II work where an asbestos-containing material is not removed substantially intact; (3) all Class II and III work not using wet methods, except on sloped roofs; (4) all Class II and III work without a negative exposure assessment; (5) all Class III jobs where thermal system insulation or surfacing asbestos- containing or presumed asbestos-containing material is cut, abraded, or broken; (6) all Class IV work within a regulated area where respirators are required; (7) all work where employees are exposed above the PEL or STEL; and (8) in emergencies. **1926.1101(h)(1)(i) through (viii)**

The employer must provide and require the use of protective clothing – such as coveralls or similar whole-body clothing, head coverings, gloves, and foot coverings – for:

- Any employee exposed to airborne asbestos exceeding the PEL or STEL,
- Work without a negative exposure assessment, or
- Any employee performing Class I work involving the removal of over 25 linear or 10 square feet (10 square meters) of thermal system insulation or surfacing asbestos containing or presumed asbestos-containing materials. **1926.1101(i)(1)**

The employer must provide a medical surveillance program for all employees who – for a combined total of 30 or more days per year – engage in Class I, II, or III work or are exposed at or above the PEL or STEL; or who wear negative-pressure respirators. **1926.1101(m)(1)(i)**

Belt Sanding Machines

Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs onto a pulley. **1926.304(f), incorporated from ANSI 01.1-1961, Section 4.9.4**

The unused run of the sanding belt shall be guarded against accidental contact. **1926.304(f), incorporated from ANSI 01.1-1961, Section 4.9.4**

Chains (See Wire Ropes, Chains, and Ropes)

Chemicals (See Gases, Vapors, Fumes, Dusts, and Mists; Asbestos; Lead; Silica; and Hazard Communication)

Compressed Air, Use of

Compressed air used for cleaning purposes shall be reduced to less than 30 pounds per square inch (psi) and then only with effective chip guarding and personal protective equipment. This requirement does not apply to concrete form, mill scale, and similar cleaning operations. **1926.302(b)(4)**

Compressed Gas Cylinders

Valve protection caps shall be in place and secured when compressed gas cylinders are transported, moved, or stored. **1926.350(a)(1)**

Cylinder valves shall be closed when work is finished and when cylinders are empty or are moved. **1926.350(a)(8)**

Compressed gas cylinders shall be secured in an upright position at all times, except if necessary for short periods of time when cylinders are actually being hoisted or carried. **1926.350(a)(9)**

Cylinders shall be kept far enough away from the actual welding or cutting operations so that sparks, hot slag, or flame will not reach them. When this is impractical, fire-resistant shields shall be provided. Cylinders shall be placed where they cannot become part of an electrical circuit. **1926.350(b)(1) through (2)**

Oxygen and fuel gas pressure regulators, including their related gauges, shall be in proper working order while in use. **1926.350(h)**

Concrete and Masonry Construction

No construction loads shall be placed on a concrete structure or portion of a concrete structure unless the employer determines, based on information received from a person who is qualified in structural design, that the structure or portion of the structure is capable of supporting the loads. **1926.701(a)**

No employee shall be permitted to work under concrete buckets while buckets are being elevated or lowered into position. **1926.701(e)(1)**

To the extent practical, elevated concrete buckets shall be routed so that no employee or the fewest number of

employees is exposed to the hazards associated with falling concrete buckets. **1926.701(e)(2)**

Formwork shall be designed, fabricated, erected, supported, braced, and maintained so that it is capable of supporting – without failure – all vertical and lateral loads that may reasonably be anticipated to be applied to the formwork. **1926.703(a)(1)**

Forms and shores (except those used for slabs on grade and slip forms) shall not be removed until the employer determines that the concrete has gained sufficient strength to support its weight and superimposed loads. Such determination shall be based on compliance with one of the following:

- The plans and specifications stipulate conditions for removal of forms and shores, and such conditions have been followed, or
- The concrete has been properly tested with an appropriate American Society for Testing Materials (ASTM) standard test method designed to indicate the concrete compressive strength, and the test results indicate that the concrete has gained sufficient strength to support its weight and superimposed loads. (ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428; (610) 832-9585). **1926.703(e)(1)(i) through (ii)**

A limited access zone shall be established whenever a masonry wall is being constructed. The limited access zone shall conform to the following:

- Established prior to the start of construction of the wall,
- Equal to the height of the wall to be constructed plus 4 feet (1.2 meters), and shall run the entire length of the wall,
- Established on the side of the wall that will be unscaffolded,
- Restricted to entry by employees actively engaged in constructing the wall. No other employees shall be permitted to enter the zone,
- Remain in place until the wall is adequately supported to prevent overturning and to prevent collapse; where the height of a wall is more than 8 feet (2.4 meters), the limited access zone shall remain in place until the requirements of paragraph (b) of this section have been met. **1926.706(a)(1) through (5)**

All masonry walls more than 8 feet (2.4384 meters) in height shall be adequately braced to prevent overturning and to prevent collapse unless the wall is adequately supported so that it will not overturn or collapse. The bracing shall remain in place until permanent supporting elements of the structure are in place. **1926.706(b)**

Confined Spaces

All employees required to enter into confined or enclosed spaces must be instructed as to the nature of the hazards involved, the necessary precautions to be taken, and in the use of required protective and emergency equipment.

The employer shall comply with any specific regulations that apply to work in dangerous or potentially dangerous areas. Confined or enclosed spaces include, but are not limited to, storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, sewers, underground utility vaults, tunnels, pipelines, and open top spaces more than 4 feet deep (1.2 meters) such as pits, tubs, vaults, and vessels. **1926.21(b)(6)(i) through (ii)**

Cranes and Derricks

Before assembly or use of a crane, ground conditions must be firm, drained, and graded so that the equipment manufacturer's specifications for adequate support and degree of level are met. **1926.1402(b)**

A competent person must begin a visual inspection prior to each shift during which the equipment will be used, which must be completed before or during the shift. The inspection must consist of observation for apparent deficiencies. **1926.1412(d)(1)**

A qualified person must conduct a comprehensive inspection at least every 12 months. **1926.1412(f)(1)**

The employer must comply with all manufacturer procedures applicable to the operational functions of equipment, including its use with attachments. **1926.1417(a)**

Hand signal charts must be either posted on the equipment or conspicuously posted in the vicinity of the hoisting operations. **1926.1422**

A personal fall arrest system is permitted to be anchored to the crane/derrick's hook (or other part of the load line) where a qualified person has determined the set-up and rated capacity of the crane/derrick (including the hook, load line, and rigging) meets or exceeds the requirements in §1926.502(d)(15) and no load is suspended from the load line when the personal fall arrest system is anchored to the crane/derrick's hook (or other part of the load line). The equipment operator must be at the worksite and know the equipment is being used for this purpose. **1926.1423(j)**

Where available, hoisting routes that minimize the exposure of employees to hoisted loads must be used, to the extent consistent with public safety. **1926.1425(a)**

The employer must ensure that, prior to operating any equipment covered under Subpart CC, the person operating the equipment is qualified or certified to operate the equipment. Exceptions: operation of derricks, sideboom cranes, and equipment with a rated hoisting/lifting capacity of 2,000 pounds or less. **1926.1427(a)(1) through(3)**

On equipment with a rated hoisting/lifting capacity of 2,000 pounds or less the employer must train each operator, prior to operating the equipment, on the safe operation of the type of equipment the operator will be using. **1926.1441(e)**

Demolition

Prior to permitting employees to start demolition operations, a competent person shall make an engineering survey of the structure to determine the condition of the framing, floors, and walls, and possibility of unplanned collapse of any portion of the structure. A similar survey of any adjacent structure where employees may be exposed shall be completed. The employer shall have in writing evidence that such a survey has been performed. **1926.850(a)**

During balling or claiming operations, employers shall not permit any workers in any area that can be adversely affected by demolition operations. Only those workers necessary for the performance of the operations shall be permitted in this area at any other time. **1926.859(a)**

Disposal Chutes

Whenever materials are dropped more than 20 feet (6 meters) to any exterior point of a building, an enclosed chute shall be used. **1926.252(a)**

When debris is dropped through holes in the floor without the use of chutes, the area where the material is dropped shall be enclosed with barricades not less than 42 inches high (106.7 centimeters) and not less than 6 feet (1.8 meters) back from the projected edges of the opening above. Warning signs of the hazard of falling material shall be posted at each level. **1926.252(b)**

Note: During demolition, **1926.852** applies to chutes and **1926.853** applies to the removal of materials through floor openings.

Diving

The employer shall develop and maintain a safe practice manual, and make it available at the dive location for each dive team member. **1910.420(a) made applicable to construction by 1926.1080**

The employer shall keep a record of each dive. The record shall contain the diver's name, his or her supervisor's name, date, time, location, type of dive (scuba, mixed gas, surface supply), underwater and surface conditions, and maximum depth and bottom time. 1**910.423(d)(1)(i) through** (vi) **made applicable to construction by 1926.1083**

Each dive team member shall have the experience or training necessary to perform assigned tasks safely. **1910.410(a)(1) made applicable to construction by 1926.1076**

Each dive team member shall be briefed on the tasks, safety procedures, unusual hazards or environmental conditions, and modifications made to the operating procedures. **1910.421(f) made applicable to construction by 1926.1081**

The dive shall be terminated when a diver requests it, the diver fails to respond correctly, communication is lost, or when the diver begins to use the reserve breathing gas. **1910.422(i)(1) through (4) made applicable to construction by 1926.1082.**

Drinking Water

An adequate supply of potable water shall be provided in all places of employment. **1926.51(a)(1)**

Portable drinking water containers shall be capable of being tightly closed and equipped with a tap. **1926.51(a)(2)**

Using a common drinking cup is prohibited. **1926.51(a)(4)**

Where single service cups (to be used but once) are supplied, both a sanitary container for unused cups and a receptacle for used cups shall be provided. **1926.51(a)(5)**

Electrical Installations

Employers must provide either ground-fault circuit interrupters (GFCIs) or an assured equipment grounding conductor program to protect employees from ground-fault hazards at construction sites.
The two options are detailed below.

- All 120-volt, single-phase, 15- and 20-ampere receptacles that are not part of the permanent wiring must be protected by GFCIs. Receptacles on smaller generators are exempt under certain conditions, or
- An assured equipment grounding conductor program covering extension cords, receptacles, and cord- and plug-connected equipment must be implemented. The program must include the following:
- A written description of the program,
- At least one competent person to implement the program,
- Daily visual inspections of extension cords and cord- and plug-connected equipment for defects. Equipment found damaged or defective shall not be used until repaired,
- Continuity tests of the equipment grounding conductors or receptacles, extension cords, and cord- and plug-connected equipment. These tests must generally be made every 3 months,
- Equipment that does not meet the above requirements may not be used,
- Required tests shall be recorded. **1926.404(b)(1) (i) through (iii)(e)**

Light bulbs for general illumination must be protected from breakage, and metal shell sockets must be grounded. **1926.405(a)(2)(ii)(E)**

Temporary lights must not be suspended by their cords, unless they are so designed. **1926.405(a)(2) (ii)(F)**

Portable lighting used in wet or conductive locations, such as drums, tanks, and vessels, must be operated at no more than 12 volts or must be protected by a ground-fault circuit interrupter (GFCI). **1926.405(a)(2)(ii)(G)**

Extension cords must be of the three-wire type. Extension cords and flexible cords used with temporary and portable lights must be designed for hard or extra hard usage (for example, types S, ST, and SO). **1926.405(a)(2)(ii)(J)**

Flexible cords must be connected to devices and fittings so that strain relief is provided which will prevent pull from being directly transmitted to joints or terminal screws. **1926.405(g)(2)(iv)**

Listed, labeled, or certified equipment shall be installed and used in accordance with instructions included in the

listing, labeling, or certification.
1926.403(b)(2)

Electrical Work Practices

Employers must not allow employees to work near live parts of electrical circuits, unless the employees are protected by one of the following means:

- Deenergizing and grounding the parts
- Guarding the part by insulation,
- Any other effective means. **1926.416(a)(1)**

In work areas where the exact location of underground electrical power lines is unknown, employees using jack hammers, bars, or other hand tools that may contact the lines must be protected by insulating gloves.
1926.416(a)(2)

Barriers or other means of guarding must be used to ensure that workspace for electrical equipment will not be used as a passageway during periods when energized parts of equipment are exposed. **1926.416(b)(1)**

Work spaces, walkways, and similar locations shall be kept clear of cords. **1926.416(b)(2)**

Worn or frayed electric cords or cables shall not be used. **1926.416(e)(1)**

Extension cords shall not be fastened with staples, hung from nails, or suspended by wire. **1926.416(e)(2)**

Equipment or circuits that are deenergized must be rendered inoperative and must have tags attached at all points where the equipment or circuits could be energized. **1926.417(b)**

Excavating and Trenching

The estimated location of utility installations – such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work – shall be determined prior to opening an excavation. **1926.651(b)(1)**

Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or owners cannot respond to a request to locate underground utility installations within 24 hours (unless a longer period is required by state or local law), or cannot establish the exact location of these installations, the employer may proceed, provided the employer does so with caution, and provided detection equipment or other acceptable means to locate utility installations are used. **1926.651(b)(2)**

When excavation operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means. While the excavation is open, underground installations shall be protected, supported, or removed, as necessary, to safeguard employees. **1926.651(b)(3) through (4)**

Each employee in an excavation shall be protected from cave-ins by an adequate protective system except when excavations are made entirely in stable rock, or excavations are less than 5 feet (1.5 meters) in depth and examination of the ground by a competent person provides no indication of a potential cave-in. **1926.652(a)(1)(i) through (ii)**

Protective systems shall have the capacity to resist, without failure, all loads that are intended or could reasonably be expected to be applied or transmitted to the system. **1926.652(a)(2)**

Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations.

Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (0.6 meters) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary. **1926.651(j)(2)**

Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard- increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated. **1926.651(k)(1)**

Where a competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety. **1926.651(k)(2)**

A stairway, ladder, ramp, or other safe means of egress shall be located in trench excavations that are 4 feet (1.2 meters) or more in depth so as to require no more than 25 feet (7.6 meters) of lateral travel for employees**.** **1926.651(c)(2)**

Each employee at the edge of an excavation 6 feet deep (1.8 meters) or more in depth shall be protected from falling by guardrail systems, fences, barricades when the excavations are not readily seen because of plant growth or other visual barrier. **1926.501(b)(7)(i)**

Exits

Exits must be free of all obstructions so they can be used immediately in case of fire or emergency. **1926.34(c)**

Explosives and Blasting

Only authorized and qualified persons shall be permitted to handle and use explosives. **1926.900(a)**

Explosives and related materials shall be stored in approved facilities required under the applicable provisions of the Bureau of Alcohol, Tobacco and Firearms regulations contained in 27 CFR Part 55, Commerce in Explosives. (See Subpart K.) **1926.904(a)**

Smoking and open flames shall not be permitted within 50 feet (15.2 meters) of explosives and detonator storage magazines. **1926.904(c)** Procedures that permit safe and efficient loading shall be established before loading is started. **1926.905(a)**

Eye and Face Protection

Eye and face protection shall be provided when machines or operations present potential for eye or face injury. **1926.102(a)(1)**

Eye and face protective equipment shall meet the requirements of ANSI Z87.1-1968, *Practice for Occupational and Educational Eye and Face Protection*. **1926.102(a)(2)**

Employees involved in welding operations shall be furnished with filter lenses or plates of at least the proper shade number as indicated in Table E-2. **1926.102(b)(1)**

Table E-2 – Filter Lens Shade Numbers for Protection Against Radiant Energy – 1926.102(b)(1)

Welding operation	Shade Number
Shielded metal-arc welding 1/16-, 3/32-, 1/8-, 5/32-inch diameter electrodes	10
Gas-shielded arc welding (nonferrous) 1/16-, 3/32-, 1/8-, 5/32-inch diameter	11
Gas-shielded arc welding (nonferrous) 1/16-, 3/32-, 1/8-, 5/32-inch diameter	12
Shielded metal-arc welding 3/16-, 7/32-, 1/4-inch diameter electrodes	12
5/16-, 3/8-inch diameter electrodes	14
Atomic hydrogen welding	10-14
Carbon-arc welding	14
Soldering	2
Torch brazing	3 or 4
Medium cutting, 1 inch to 6 inches	4 or 5
Heavy cutting, over 6 inches	5 or 6
Gas welding (light), up to 1/8-inch	4 or 5
Gas welding (medium), 1/8- to 1/2-inch	5 or 6
Gas welding (heavy), over 1/2-inch	6 or 8

Employees exposed to laser beams shall be furnished suitable laser safety goggles that will protect for the specific wave length of the laser and the optical density adequate for the energy involved. **1926.102(b)(2)(i)**

Fall Protection

Employers are required to assess the workplace to determine if the walking/working surface on which employees are to work have the strength and structural integrity to safely support workers. Employees are not permitted to work on those surfaces until it has been determined that the surfaces have the requisite strength and structural integrity to support the workers. **1926.501(a)(2)**

Where employees are exposed to falling 6 feet (1.8 meters) or more from an unprotected side or edge, the employer must select either a guardrail system, safety net system, or personal fall arrest system to protect the worker. **1926.501(b)(1)**

A personal fall arrest system consists of an anchorage, connectors, body harness and may include a lanyard, deceleration device, lifeline, or a suitable combination of these. Body belts used for fall arrests are prohibited. 1**926.500(b) and 1926.502(d)**

Each employee in a hoist area shall be protected from falling 6 feet (1.8 meters) or more by guardrail systems or personal fall arrest systems. If guardrail systems (or chain gate or guardrail) or portions thereof must be removed to facilitate hoisting operations, as during the landing of materials, and a worker must lean through the access opening or out over the edge of the access opening to receive or guide equipment and materials, that employee must be protected by a personal fall arrest system. **1926.501(b)(3)**

Each employee on walking/working surfaces shall be protected from falling through holes (including skylights) more than 6 feet (1.8 m) above lower levels, by personal fall arrest systems, covers, or guardrail systems erected around such holes. **1926.501(b)(4)(i)**

Each employee on ramps, runways, and other walkways shall be protected from falling 6 feet or more to lower levels by guardrail systems. **1926.501(b)(6)**

Each employee at the edge of an excavation 6 feet deep (1.8 meters) or more in depth shall be protected from falling by guardrail systems, fences, barricades when the excavations are not readily seen because of a visual barrier. **1926.501(b)(7)(i)**

Each employee at the edge of a well, pit, shaft, and similar excavation 6 feet (1.8 meters) or more in depth shall

be protected from falling by guardrail systems, fences, barricades, or covers. **1926.501(b)(7)(ii)**

Each employee performing overhand bricklaying and related work 6 feet (1.8 meters) or more above lower levels, on surfaces other than scaffolds, shall be protected by guardrail systems, safety net systems, or personal fall arrest systems, or shall work in a controlled access zone. All employees reaching more than 10 inches (25.4 centimeters) below the level of a walking/working surface on which they are working shall be protected by a guardrail system, safety net system, or personal fall arrest systems. **1926.501(b)(9)**

Each employee engaged in roofing activities on low-slope roofs with unprotected sides and edges 6 feet (1.8 meters) or more above lower levels shall be protected from falling by guardrail, safety net, or personal fall arrest systems or a combination of a:

- Warning line system and guardrail system,
- Warning line system and safety net system,
- Warning line system and personal fall arrest system, or
- Warning line system and safety monitoring system.

On low-slope roofs 50 feet (15.2 meters) or less in width, the use of a safety monitoring system without a warning line system is permitted. **1926.501(b)(10)**

Each employee on a steep roof with unprotected sides and edges 6 feet (1.8 meters) or more above lower levels shall be protected by guardrail systems with toeboards, safety net systems, or personal fall arrest systems. **1926.501(b)(11)**

Fall Protection, Falling Objects

When an employee is exposed to falling objects, the employer must ensure that each employee wear a hard hat and erect toeboards, screens, or guardrail systems; or erect a canopy structure and keep potential fall objects far enough from the edge of the higher level; or barricade the area to which objects could fall. **1926.501(c)(1) and (2)**

Fall Protection, Wall Openings

Each employee working on, at, above, or near wall openings (including those with chutes attached) where the outside bottom edge of the wall opening is 6 feet (1.8 meters) or more above lower levels and the inside bottom edge of the wall opening is less than 39 inches (1 meter) above the walking/ working surface must be protected from falling by the use of a guardrail system, a safety net system, or a personal fall arrest system. **1926.501(b)(14)**

Fire Protection

A fire protection program is to be followed throughout all phases of the construction and demolition work involved. It shall provide for effective firefighting equipment to be available without delay, and designed to effectively meet all fire hazards as they occur. **1926.150(a)(1)**

Firefighting equipment shall be conspicuously located and readily accessible at all times, be periodically inspected, and be maintained in operating condition. **1926.150(a)(2) to (4)**

A fire extinguisher, rated not less than 2A (acceptable substitutes are a 1/2-inch diameter garden-type hose not to exceed 100 feet capable of discharging a minimum of 5 gallons per minute or a 55-gallon drum of water with two fire pails), shall be provided for each 3,000 square feet (270 square meters) of the protected building area, or major fraction thereof. Travel distance from any point of the protected area to the nearest fire extinguisher shall not exceed 100 feet (30.5 meters). **1926.150(c)(1)(i) to (iii)**

The employer shall establish an alarm system at the worksite so that employees and the local fire department

can be alerted for an emergency. **1926.150(e)(1)**

Flaggers

High-visibility clothing

For daytime work, the flagger's vest, shirt, or jacket shall be orange, yellow, strong yellow- green or fluorescent versions of these colors. Fornighttime work, similar outside garments shall be retro-reflective. The retro-reflective material shall be orange, yellow, white, silver, strong yellow-green, or a fluorescent version of one of these colors and shall be visible at a minimum distance of 1,000 feet. The retro-reflective clothing shall be designed to identify clearly the wearer as a person and be visible through the full range of body motions. ***PartVIofthe Manualon UniformTraffic ControlDevices*** **made applicable to construction by 1926.201(a) and 1926.200(g)(2)**

Hand-signaling procedures

The STOP/SLOW paddle, which gives driversmore positive guidance than red flags, should be the primary hand-signaling device. Flag use should be limited to emergencies and at low- speed and/or low-volume locations that can best be controlled by a single flagger.

The following methods of signaling with STOP/ SLOW paddles should be used:

- To Stop Traffic – The flagger shall face traffic and extend the STOP sign paddle in a stationary position with the arm extended horizontally away from the body. The free arm should be raised with the palm toward approaching traffic.
- To Direct Stopped Traffic to Proceed – The flagger shall face traffic with the SLOW paddle held in a stationary position with the arm extended horizontally away from the body. The flagger should motion with the free hand for traffic to proceed.
- To Alert or Slow Traffic – The flagger shall face traffic with the SLOW sign paddle held in a stationary position with the arm extended horizontally away from the body. The flagger may motion up and down with the free hand, palm down, indicating that the vehicle should slow down.
- The following methods of signaling with a flag should beused:
- To Stop Traffic – The flagger shall face trafficand extend the flag staff horizontally across the traffic lane in a stationary position, so that the full area of the flag is visible hanging below the staff. The free arm should be raised with the palm toward approaching traffic.
- To Direct Stopped Traffic to Proceed – The flagger shall face traffic with the flag and arm lowered from view of the driver. With the free hand, the flagger should motion traffic to proceed. Flags shall not be used to signal traffic to proceed.
- To Alert or Slow Traffic – The flagger shall face traffic and slowly wave the flag in a sweeping motion of the extended arm from shoulder level to straight down, without raising the arm above a horizontal position.

Flammable and Combustible Liquids

Only approved containers and portable tanks shall be used for storing and handling flammable and combustible liquids. **1926.152(a)(1)**

No more than 25 gallons (94.7 liters) of flammable or combustible liquids shall be stored in a room outside of an approved storage cabinet. No more than three storage cabinets may be located in a single storage area. **1926.152(b)(1) and (3)**

Inside storage rooms for flammable and combustible liquids shall be of fire-resistant construction, have self-closing fire doors at all openings, 4-inch (10 centimeter) sills or depressed floors, a ventilation system that provides at least six air changes within the room per hour, and electrical wiring and equipment approved for

Class 1, Division 1 locations. **1926.152(b)(4)**

Storage in containers outside buildings shall not exceed 1,100 gallons (4,169 liters) in any one pile or area. The storage area shall be graded to divert possible spills away from buildings or other exposures, or shall be surrounded by a curb or dike. **1926.152(c)(1) and (3)**

Outdoor portable tanks shall be located at least 20 feet (6 meters) from any building. **1926.152(c)(4)(i)**

Storage areas shall be free from weeds, debris, and other combustible materials not necessary to the storage. **1926.152(c)(5)**

Flammable liquids shall be kept in closed containers when not actually in use. **1926.152(f)(1)**

Conspicuous and legible signs prohibiting smoking shall be posted in service and refueling areas. **1926.152(g)(9)**

Forklifts (See Powered Industrial Trucks)

Gases, Vapors, Fumes, Dusts, and Mists

Exposure to toxic gases, vapors, fumes, dusts, and mists at a concentration above those specified in Appendix A, shall be avoided. **1926.55(a) and 1926.55 Appendix A**

Administrative or engineering controls must be implemented whenever feasible to comply with Threshold Limit Values. When engineering and administrative controls are not feasible to achieve full compliance, protective equipment or other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed. Any equipment and technical measures used for this purpose must first be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with 1910.134, made applicable to construction by **1926.103. 1926.55(b)**

General Duty Clause

Hazardous conditions or practices not covered in an OSHA standard may be covered under Section 5(a)(1) of the *Occupational Safety and Health Act of 1970*, which states: "Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

Grinding

All abrasive wheel bench and stand grinders shall be equipped with safety guards that cover the spindle ends, nut and flange projections, and are strong enough to withstand the effects of a bursting wheel. **1926.303(b)(1), (2), and (c)(1)**

An adjustable work rest of rigid construction shall be used on floor and bench-mounted grinders, with the work rest kept adjusted to a clearance not to exceed 1/8-inch (0.3 centimeters) between the work rest and the surface of the wheel. **1926.303(c)(2)**

All abrasive wheels shall be closely inspected and ring-tested before mounting to ensure that they are free from cracks or other defects. **1926.303(c)(7)**

Portable abrasive wheel tools used for external grinding shall be provided with safety guards, except when the wheels are 2 inches (5 centimeters) or less in diameter or the work location makes it impossible (then a wheel equipped with safety flanges shall be used). **1926.303(c)(3)**

Portable abrasive wheel tools used for internal grinding shall be provided with safety flanges, except when the

wheels are 2 inches (5 centimeters) or less in diameter or the wheel is entirely inside the work. **1926.303(c)(4)**

Hand Tools

All hand and power tools and similar equipment, whether furnished by the employer or employee, shall be maintained in a safe condition. Employers shall not issue or permit the use of unsafe hand tools. **1926.300(a) and 1926.301(a)**

Wrenches shall not be used when jaws are sprung to the point that slippage occurs. Impact tools shall be kept free of mushroomed heads. The wooden handles of tools shall be kept free of splinters or cracks and shall be kept tight in the tool. **1926.301(b) through (d)**

Electric power operated tools shall either be approved double-insulated, or be properly grounded in accordance with Subpart K of the standard. **1926.302(a)(1)**

Hazard Communication

Employers shall develop, implement, and maintain at the workplace a written hazard communication program for their workplaces. Employers must inform their employees of the availability of the program, including the required list(s) of hazardous chemicals, and material safety data sheets required. **1910.1200(e)(1) and (e)(4) made applicable to construction by 1926.59**

The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked with the identity of the hazardous chemical(s), the appropriate hazard warnings, and the name and address of the chemical manufacturer, importer, or other responsible party. **1910.1200(f)(1) made applicable to construction by 1926.59**

The employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged or marked with the following information:

- Identity of the hazardous chemical(s) contained therein, and
- Appropriate hazard warnings, or alternatively, words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide employees with specific information regarding the physical and health hazards of the hazardous chemical. **1910.1200(f)(5) made applicable to construction by 1926.59**

Chemical manufacturers and importers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import.

Employers shall have a material safety data sheet for each hazardous chemical they use. **1910.1200(g)(1) made applicable to construction by 1926.59**

Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their work area. Employers shall also provide employees with information on any operations in their work area where hazardous chemicals are present, and the location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets required by the standard. **1910.1200(h)**(1)**and (2)(i) through (iii) made applicable to construction by 1926.59**

Employers who produce, use, or store hazardous chemicals at multi-employer workplaces shall additionally ensure that their hazard communication program includes the methods the employer will use to provide other employer(s) with a copy of the material safety data sheet for hazardous chemicals which employees of other employer(s) may

be exposed to while working; the methods the employer will use to inform other employer(s) of any precautionary measures for the protection of employees; and the methods the employer will use to inform the other employer(s) of the labeling system used in the workplace. **1910.1200(e)(2) made applicable to construction by 1926.59**

Hazardous Waste Operations

Employers must develop and implement a written safety and health program for employees involved in hazardous waste operations. At a minimum, the program shall have an organizational structure, a comprehensive workplan, standard operating procedures, a site specific safety and health plan (which need not repeat the standard operating procedures), the training program, and medical surveillance program. **1926.65(b)(1)**

A site control program also shall be developed and shall include, at a minimum, a map, work zones, buddy systems, site communications – including alerting means for emergencies – standard operating procedures or safe work practices, and identification of the nearest medical assistance. **1926.65(d)(3)**

Training must be provided for all site employees, their supervisors, and management who are exposed to health or safety hazards before they are permitted to engage in hazardous waste operations. **1926.65(e)(1)(i)**

Head Protection

Head protective equipment (helmets) shall be worn in areas where there is a possible danger of head injuries from impact, flying or falling objects, or electrical shock and burns. **1926.100(a)**

Helmets for protection against impact and penetration of falling and flying objects shall meet the requirements of ANSI Z89.1-1969. Helmets for protection against electrical shock and burns shall meet the requirements of ANSI Z89.2-1971. **1926.100(b) and (c)**

Hearing Protection

Feasible engineering or administrative controls shall be utilized to protect employees against sound levels in excess of those shown in Table D-2.

When engineering or administrative controls fail to reduce sound levels within the limits of Table D-2, ear protective devices shall be provided and used. **1926.52(b) and .101(a)**

Plain cotton is not an acceptable protective device. **1926.101(c)**

In all cases where the sound levels exceed the values shown in Table D-2, a continuing, effective hearing conservation program shall be administered. **1926.52(d)(1)**

OSHA considers the following topics to be valuable in a hearing conservation program:

- Monitoring employee noise exposures (to determine if sound levels exceed those shown in **1926.52** Table D-2 at the right),
- Using engineering, work practice and administrative controls, and personal protective equipment measures (see "Training and Hazard Control" 1**926.21(b)(2)**),
- Fitting each overexposed employee with appropriate hearing protectors **1926.101(b)**,
- Training employees in the effects of noise and protection measures (see "Training and Hazard Control" **1926.21(b)(2)**,
- Explaining procedures for preventing further hearing loss, and recordkeeping and reporting.

For more information: OSHA describes hearing conservation program requirements for general industry in the

General Industry Occupational Noise Exposure standard **1910.95(c)–(o)**.

Table D-2 – Permissible Noise Exposures – 1926.52(d)(1)

Duration per day,	Sound Level/dBA slow
8	90
6	92
4	95
3	97
2	100
1 1/2	102
1	105
1/2	110
1/4 or less	115

Exposure to impulsive or impact noise should not exceed 140 dB peak sound pressure level. **1926.52(e)**

Heating Devices, Temporary

When heating devices are used, fresh air shall be supplied in sufficient quantities to maintain the health and safety of workers. **1926.154(a)(1)**

Solid fuel salamanders are prohibited in buildings and on scaffolds. **1926.154(d)**

Highway Work Zones (See Flaggers and Signs, Signals, and Barricades)

Hoists, Material and Personnel

The employer shall comply with the manufacturer's specifications and limitations. **1926.552(a)(1)**

Rated load capacities, recommended operating speeds, and special hazard warnings or instructions shall be posted on cars and platforms. **1926.552(a)(2)**

Hoistway entrances of material hoists shall be protected by substantial full width gates or bars that are painted with diagonal contrasting colors such as black and yellow stripes. **1926.552(b)(2)**

Hoistway doors or gates of personnel hoists shall be not less than 6 feet 6 inches (198.1 meters) high and shall be protected with mechanical locks that cannot be operated from the landing side and that are accessible only to persons on the car. **1926.552(c)(4)**

Overhead protective coverings shall be provided on the top of the hoist cage or platform. **1926.552(b)(3) and (c)(7)**

All material hoists shall conform to the requirements of ANSI A10.5-1969, *Safety Requirements for Material Hoists*. **1926.552(b)(8)**

The requirements of 1926.1431 apply when one or more employees are hoisted using equipment covered by Subpart CC, Cranes and Derricks in Construction.

Hooks (See Wire Ropes, Chains, and Ropes)

Housekeeping

Form and scrap lumber with protruding nails and all other debris shall be kept clear from all work areas. **1926.25(a)**

Combustible scrap and debris shall be removed at regular intervals. **1926.25(b)**

Containers shall be provided for collection and separation of all refuse. Covers shall be provided on containers used for flammable or harmful substances. Waste shall be disposed of at frequent intervals. **1926.25(c)**

Illumination

Construction areas, aisles, stairs, ramps, runways, corridors, offices, shops, and storage areas shall be lighted to not less than the minimum illumination intensities listed in Table D-3 while any work is in progress. **1926.26**

Table D-3 – Minimum Illumination Intensities in Footcandles

Footcandles: Area of Operation

5.....General construction area lighting

3.....General construction areas, concrete placement, excavation, waste areas, accessways, active storage areas, loading platforms, refueling, and field maintenance areas

5.....Indoor warehouses, corridors, hallways, and exitways

5.....Tunnels, shafts, and general underground work areas (Exception: minimum of 10 footcandles is required at tunnel and shaft heading during drilling, mucking, and scaling. Bureau of Mines- approved cap lights shall be acceptable for use in the tunnel heading)

10.....General construction plant and shops (e.g., batch plants, screening plants, mechanical and electrical equipment rooms, carpenters shops, rigging lofts and active store rooms, barracks or living quarters, locker or dressing rooms, mess halls, indoor toilets, and workrooms)

30.....First-aid stations, infirmaries, and offices **1926.56(a)**

Jointers

A jointer guard shall automatically adjust itself to cover the unused portion of the head and the section of the head on the working side and the backside of the fence or cage. The jointer guard shall remain in contact with the material at all times. **ANSI 01.1-1961, section 4.3.2, incorporated by reference to construction by 1926.304(f)**

Ladders

A ladder (or stairway) must be provided at all work points of access where there is a break in elevation of 19 inches (48.2 centimeters) or more except if a suitable ramp, runway, embankment, or personnel hoist is provided to give safe access to all elevations. **1926.1051(a)**

Portable and fixed ladders with structural defects – such as broken or missing rungs, cleats or steps, broken or split rails, or corroded components – shall be withdrawn from service by immediately tagging "DO NOT USE" or marking in a manner that identifies them as defective, or shall be blocked, such as with a plywood attachment that spans several rungs. Repairs must restore ladder to its original design criteria. 1**926.1053(b)(16),(17)** (I) **through (iii) and (18)**

Portable non-self-supporting ladders shall have clear access at top and bottom and be placed at an angle so the horizontal distance from the top support to the foot of the ladder is approximately one-quarter the working

length of the ladder. **1926.1053(b)(5)(i) and (b)(9)**

Portable ladders used for access to an upper landing surface must extend a minimum of 3 feet (0.9 meters) above the landing surface, or where not practical, be provided with grab rails and be secured against movement while in use. **1926.1053(b)(1)**

Ladders must have nonconductive siderails if they are used where the worker or the ladder could contact energized electrical conductors or equipment. **1926.1053(b)(12)**

Job-made ladders shall be constructed for their intended use. Cleats shall be uniformly spaced not less than 10 inches (25.4 centimeters) apart, nor more than 14 inches (35.5 centimeters) apart. **1926.1053(a)(3)(i)**

Wood job-made ladders with spliced side rails must be used at an angle where the horizontal distance is one-eighth the working length of the ladder. **1926.1053(b)(5)(ii)**

Fixed ladders must be used at a pitch no greater than 90 degrees from the horizontal, measured from the back side of the ladder. **1926.1053(b)(5)(iii)**

Ladders must be used only on stable and level surfaces unless secured to prevent accidental movement. **1926.1053(b)(6)**

Ladders must not be used on slippery surfaces unless secured or provided with slip-resistant feet to prevent accidental movement. Slip-resistant feet must not be used as a substitute for the care in placing, lashing, or holding a ladder upon a slippery surface. **1926.1053 (b)(7)**

Employers must provide a training program for each employee using ladders and stairways. The program must enable each employee to recognize hazards related to ladders and stairways and to use proper procedures to minimize these hazards. For example, employers must ensure that each employee is trained by a competent person in the following areas, as applicable:

- The nature of fall hazards in the work area,
- The correct procedures for erecting, maintaining, and disassembling the fall protection systems to be used,
- The proper construction, use, placement, and care in handling of all stairways and ladders, and
- The maximum intended load-carrying capacities of ladders used.

In addition, retraining must be provided for each employee, as necessary, so that the employee maintains the understanding and knowledge acquired through compliance with the standard. **1926.1060(a) and (b)**

Lasers

Only qualified and trained employees shall be assigned to install, adjust, and operate laser equipment. **1926.54(a)**

Employees shall wear proper (antilaser) eye protection when working in areas where there is a potential exposure to direct or reflected laser light greater than 0.005 watts (5 milliwatts). **1926.54(c)**

Beam shutters or caps shall be utilized, or the laser turned off, when laser transmission is not actually required. When the laser is left unattended for a substantial period of time – such as during lunch hour, overnight, or at change of shifts – the laser shall be turned off. **1926.54(e)**

Employees shall not be exposed to light intensities in excess of the following: direct staring – 1 microwatt per square centimeter, incidental observing – 1 milliwatt per square centimeter, and diffused reflected light – 2 1/2 watts per square centimeter. **1926.54(j)(1) through (3)**

Employees shall not be exposed to microwave power densities in excess of 10 milliwatts per square centimeter. **1926.54(1)**

Lead

Each employer who has a workplace or operation covered by this standard shall initially determine if any employee may be exposed to lead at or above the action level of 30 micrograms per cubic meter (30 µg/m^3) of air calculated as an 8-hour time- weighted average. **1926.62(d)(1)(i)**

The employer shall assure that no employee is exposed to lead at concentrations greater than 50 micrograms per cubic meter (50 µg/m^3) of air averaged over an 8-hour period (the permissible exposure limit PEL). **1926.62(c)(1)**

Whenever there has been a change of equipment, process, control, personnel, or a new task has been initiated that may result in additional employees being exposed to lead at or above the action level or may result in employees already exposed at or above the action level being exposed above the PEL, the employer shall conduct additional monitoring. **1926.62(d)(7)**

Training shall be provided in accordance with the Hazard Communication standard and additional training shall be provided for employees exposed at or above the action level. **1926.62(1)**

Prior to the start of the job, each employer shall establish and implement a written compliance program. **1926.62(e)(2)(i)**

Where employees are required to use respirators, the employer must implement a respiratory protection program. **1910.134(b) through (d) (except (d)(iii)), and (f) through (m) made applicable to construction by 1926.62(f)(2)(i)**

Where airborne concentrations of lead equal or exceed the action level at any time, an initial medical examination consisting of blood sampling and analysis shall be made available for each employee prior to initial assignment to the area. **1926.62 Appendix B, viii, paragraph (j)**

Lift Slab

Lift-slab operations shall be designed and planned by a registered professional engineer who has experience in lift-slab construction. Such plans and designs shall be implemented by the employer and shall include detailed instructions and sketches indicating the prescribed method of erection. **1926.705(a)**

Jacking equipment shall be capable of supporting at least two and one-half times the load being lifted during jacking operations. Also, do not overload the jacking equipment. **1926.705(d)**

During erection, no employee, except those essential to the jacking operation, shall be permitted in the building or structure while jacking operations are taking place unless the building or structure has been reinforced sufficiently to ensure its integrity. **1926.705(k)(1)**

Equipment shall be designed and installed to prevent slippage; otherwise, the employer shall institute other measures, such as locking or blocking devices, which will provide positive connection between the lifting rods and attachments and will prevent components from disengaging during lifting operations. **1926.705(p)**

Liquefied Petroleum Gas

Each system shall have containers, valves, connectors, manifold valve assemblies, and regulators of an approved type. **1926.153(a)(1)**

Every container and vaporizer shall be provided with one or more approved safety relief valves or devices.

1926.153(d)(1)

Containers shall be placed upright on firm foundations or otherwise firmly secured. **1926.153(g) and (h)(11)**

Portable heaters shall be equipped with an approved automatic device to shut off the flow of gas in the event of flame failure. **1926.153(h)(8)**

All cylinder connectors shall be equipped with an excess flow valve to minimize the flow of gas in the event the fuel line becomes ruptured. **1926.153(i)(2)**

Storage of liquefied petroleum gas within buildings is prohibited. **1926.153(j)**

Storage locations shall have at least one approved portable fire extinguisher rated not less than 20-B:C. **1926.153(l)**

Medical Services and First Aid

The employer shall ensure the availability of medical personnel for advice and consultation on matters of occupational health. **1926.50(a)**

When a medical facility is not reasonably accessible for the treatment of injured employees, a person qualified to render first aid shall be available at the worksite**. 1926.50(c)**

First-aid supplies when required should be readily available. **1926.50(d)(1)**

In areas where 911 is not available, the telephone numbers of the physicians, hospitals, or ambulances shall be conspicuously posted. **1926.50(f)**

Motor Vehicles and Mechanized Equipment

All vehicles in use shall be checked at the beginning of each shift to ensure that all parts, equipment, and accessories that affect safe operation are in proper operating condition and free from defects. All defects shall be corrected before the vehicle is placed in service. **1926.601 (b)(14)**

No employer shall use any motor vehicle, earthmoving, or compacting equipment having an obstructed view to the rear unless:

- The vehicle has a reverse signal alarm distin-guishable from the surrounding noise level, or the vehicle is backed up only when an observer signals that it is safe to do so. **1926.601(b)(4)(i) through (ii) and 602(a)(9)(i) through (ii)**

Heavy machinery, equipment, or parts thereof that are suspended or held aloft shall be substantially blocked to prevent falling or shifting before employees are permitted to work under or between them. **1926.600(a)(3)(i)**

Noise (See Hearing Protection)

Personal Protective Equipment

The employer is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions or where the need is indicated for using such equipment to reduce the hazard to the employees. **1926.28(a) and 1926.95(a) through (c)**

Employers must provide most personal protective equipment at no cost to employees. **1926.95(d)(1), see 1926.95(d)(2) through (6) for exceptions**

OSHA requires employers to provide and for employees to use specific types of personal protective equipment in specific standards throughout 29 CFR 1926. These standards include, but are not limited to:

- Foot protection. **1926.96**
- Head protection. **1926.100**
- Hearing protection. **1926.101**
- Eye and face protection. **1926.102**
- Respiratory protection. **1910.134 made applicable to construction by 1926.103**
- Safety belts, lifelines, and lanyards. **1926.104**
- Safety nets. **1926.105**
- Working over or near water (life jackets). **1926.106**
- Personal fall arrest system. **1926.502(d)**
- Protective equipment for use during electrical work. **1926.416 and 1926.951**

Head, hearing, eye and face, safety nets, fall protection, and working over or near water are covered in detail in this digest.

Powder-Actuated Tools

Only trained employees shall be allowed to operate powder-actuated tools. **1926.302(e)(1)**

All powder-actuated tools shall be tested daily before use and all defects discovered before or during use shall be corrected. **1926.302(e)(2) through (3)**

Tools shall not be loaded until immediately before use. Loaded tools shall not be left unattended. **1926.302(e)(5) through (6)**

Power Transmission and Distribution

Existing conditions shall be determined before starting work, by an inspection or a test. Such conditions shall include, but not be limited to, energized lines and equipment, condition of poles, and the location of circuits and equipment including power and communications, cable television, and fire-alarm circuits. **1926.950(b)(1)**

Electric equipment and lines shall be considered energized until determined otherwise by testing or until grounding. 1**926.950(b)(2) and .954(a)**

Operating voltage of equipment and lines shall be determined before working on or near energized parts. **1926.950(b)(3)**

Rubber protective equipment shall comply with the provisions of the ANSI J6 series, and shall be visually inspected before use. **1926.951(a)(1)(i) through (ii)**

Protective equipment of material other than rubber shall provide equal or better electrical and mechanical protection. **1926.951(a)(iv)**

Powered Industrial Trucks (Forklifts)

Each powered industrial truck operator must be competent to operate a powered industrial truck safely, as demonstrated by the successful completion of the training and evaluation. **1910.178(l)(1)(i) made applicable to construction by 1926.602(d)**

Training shall consist of a combination of formal instruction (e.g., lecture, discussion, interactive computer learning, video tape, written material), practical training (demonstrations performed by the trainer and practical exercises performed by the trainee), and evaluation of the operator's performance in the workplace. **1910.178(l)(2)(ii) made applicable to construction by 1926.602(d)**

Power Transmission, Mechanical

Belts, gears, shafts, pulleys, sprockets, spindles, drums, flywheels, chains, or other reciprocating, rotating, or moving parts of equipment shall be guarded if such parts are exposed to contact by employees or otherwise constitute a hazard. Guarding shall meet the requirement of ANSI B15.1-1953 (R 1958), Safety Code for Mechanical Power Transmission Apparatus. **1926.300(b)(2)**

Process Safety Management of Highly Hazardous Chemicals

Employers shall develop a written plan of action regarding employee participation and consult with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management. **1926.64(c)(1) through (2)**

The employer, when selecting a contractor, shall obtain and evaluate information regarding the contract employer's safety performance and programs. **1926.64(h)(2)(i)**

The contract employer shall assure that each contract employee is trained in the work practices necessary to safely perform his/her job. **1926.64(h) (3)(i)**

The employer shall perform a pre-startup safety review for new facilities and for modified facilities when the modification is significant enough to require a change in the process safety information. **1926.64(i)(1)**

The employer shall establish and implement written procedures to maintain the ongoing integrity of process equipment. **1926.64(j)(2)**

Radiation, Ionizing

Pertinent provisions of the Nuclear Regulatory Commission (NRC) Standards for Protection Against Radiation (10 CFR Part 20) relating to protection against occupational radiation exposure shall apply. **1926.53(a)**

Any activity that involves the use of radioactive materials or X-rays, whether or not under license from the Nuclear Regulatory Commission, shall be performed by competent persons specially trained in the proper and safe operation of such equipment. **1926.53(b)**

Railings

Top edge height of top rails or equivalent guardrail system members shall have a vertical height of approximately 42 inches (106.6 centimeters), plus or minus 3 inches (7.6 centimeters) above the walking/working level. **1926.502(b)(1)**

Guardrail systems shall be surfaced so as to prevent injury to an employee, with strength to withstand at least 200 pounds (90 kilograms), the minimum requirement applied in any outward or downward direction, at any point along the top edge. **1926.502(b)(3) and (6)**

A stair railing shall be of construction similar to a standard railing with a vertical height of not less than 36 inches (91.5 centimeters) from the upper surface of top rail to the surface of tread in line with face of riser at forward edge of tread. **1926.1052(c)(3)(i)**

Recordkeeping: Recording and Reporting Requirements

As of January 1, 2015, all employers must report the death of any employee from a work-related incident within 8 hours of learning about it or report within 24 hours any work-related inpatient hospitalization, amputation or loss of an eye to the closest OSHA office, or call 1-800-321-OSHA (6742). **1904.39(a) and (b)(7)**

If your company had more than 10 employees at any time during the last calendar year, you must keep the OSHA injury and illness records using the OSHA Forms 300, 300-A, and 301 or the equivalent form. **1904.1(a)(2) and 1904.29(a) and (b)(4)**

If your company had 10 or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics informs you in writing that you must keep these records. **1904.1(a)(1)**

Each recordable injury or illness must be entered on the OSHA Forms 300 and 301 within 7 days of receiving the information. **1904.29(b)(3)**

OSHA injury and illness records must be kept for all projects. If the project is 1 year or longer a separate OSHA 300 log must be kept. If the projects are less than 1 year, these projects may be placed on one OSHA 300 log that covers all short-term projects. These records may be kept at a central location as long as the information is transferred within 7 days. **1904.30(a), (b)(1) and (2)**

The OSHA 300 log must be verified, certified by a company executive, and posted at the end of each calendar year. The log must be posted no later than February 1 of the following year and remain posted until April 30. **1904.32 (a) and (b)**

The OSHA 300 and 301 logs must be kept for 5 years following the year to which they relate. **1904.33(a) and 1904.44**

Reinforced Steel

All protruding reinforced steel, onto and into which employees could fall, shall be guarded to eliminate the hazard of impalement. **1926.701(b)**

No employee (except those essential to the post- tensioning operations) shall be permitted to be behind the jack during tensioning operations. **1926.701(c)(1)**

Reinforcing steel for walls, piers, columns, and similar vertical structures shall be adequately supported to prevent overturning and to prevent collapse. **1926.703(d)(1)**

Employers shall take measures to prevent unrolled wire mesh from recoiling. Such measures may include, but are not limited to, securing each end of the roll or turning over the roll. **1926.703(d)(2)**

Respiratory Protection

In emergencies, or when feasible engineering or administrative controls are not effective in controlling toxic substances, appropriate respiratory protective equipment shall be provided by the employer and shall be used. **1910.134(a)(1) made applicable to construction by 1926.103**

Employers must select a NIOSH-certified respirator. The respirator must be used in compliance with the conditions of its certification. **1910.134(d)(1)(ii) made applicable to construction by 1926.103**

Respiratory protective devices shall be appropriate for the hazardous material involved and the extent and nature of the work requirements and conditions. **1910.134(d)(1)(i) made applicable to construction by 1926.103**

Employees required to use respiratory protective devices shall be thoroughly trained in their use. **1910.134(k) made applicable to construction by 1926.103**

Respiratory protective equipment shall be inspected regularly and maintained in good condition. **1910.134(h) made applicable to construction by 1926.103**

Rollover Protective Structures (ROPS)

Rollover protective structures (ROPS) apply to the following types of materials handling equipment: all rubber-tired, self-propelled scrapers, rubber-tired frontend loaders, rubber-tired dozers, wheel-type agricultural and industrial tractors, crawler tractors, crawler-type loaders, and motor graders, with or without attachments, that are used in construction work. This requirement does not apply to sideboom pipelaying tractors. **1926.1000(a)(1)**

Safety Nets

Safety nets must be installed as close as practicable under the walking/working surface on which employees are working, but in no case more than 30 feet (9.14 meters) below such level. When nets are used on bridges, the potential fall area from the walking/working surface to the net shall be unobstructed. **1926.502(c)(1)**

Safety nets and their installations must be capable of absorbing an impact force equal to that produced by the drop test. **1926.502(c)(4)**

Saws

Band Saws

All portions of band saw blades shall be enclosed or guarded, except for the working portion o the blade between the bottom of the guide rolls and the table. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Band saw wheels shall be fully encased. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Portable Circular Saws

Portable, power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work, and shall automatically return to the covering position when the blade is removed from the work. **1926.304(d)**

Circular saws shall have a constant pressure switch that will shut off the power when the pressure is released. **1926.300(d)(3)**

Radial Saws

Radial saws shall have an upper guard that completely encloses the upper half of the saw blade. The sides of the lower exposed portion of the blade shall be guarded by a device that will automatically adjust to the thickness of and remain in contact with the material being cut. **1926.304(g)(1)**

Radial saws used for ripping shall have nonkickback fingers or dogs. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Radial saws shall be installed so that the cutting head will return to the starting position when released by the operator. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Swing or Sliding Cut-Off Saws

All swing or sliding cut-off saws shall be provided with a hood that will completely enclose the upper half of the saw. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Limit stops shall be provided to prevent swing or sliding type cut-off saws from extending beyond the front or back edges of the table. **ANSI 01.1- 1961, incorporated by reference to construction by 1926.304(f)**

Each swing or sliding cut-off saw shall be provided with an effective device to return the saw automatically to the back of the table when released at any point of its travel. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Inverted sawing of sliding cut-off saws shall be provided with a hood that will cover the part of the saw that protrudes above the top of the table or material being cut. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Table Saws

Circular table saws shall have a hood over the portion of the saw above the table, so mounted that the hood will automatically adjust itself to the thickness of and remain in contact with the material being cut. **1926.304(h)(1)**

Circular table saws shall have a spreader aligned with the blade, spaced no more than 1/2-inch (1.27-centimeters) behind the largest blade mounted in the saw. This provision does not apply when grooving, dadoing, or rabbiting. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Circular table saws used for ripping shall have nonkickback fingers or dogs. **ANSI 01.1-1961, incorporated by reference to construction by 1926.304(f)**

Feeder attachments shall have the feed rolls or other moving parts covered or guarded so as to protect the operator from hazardous points. **1926.304(c)**

Scaffolds, General Requirements

Scaffolds shall be erected, moved, dismantled, or altered only under the supervision and direction of a competent person. **1926.451(f)(7)**

Scaffolds are any temporary elevated platform (supported or suspended) and its supporting structure (including points of anchorage), used for supporting employees or materials or both. **1926.450(b)**

Each employee who performs work on a scaffold shall be trained by a person qualified to recognize the hazards associated with the type of scaffold used and to understand the procedures to control or minimize those hazards. The training shall include such topics as the nature of any electrical hazards, fall hazards, falling object hazards, the maintenance and disassembly of the fall protection systems, the use of the scaffold, handling of materials, the capacity and the maximum intended load. **1926.454(a)**

Fall protection (guardrail systems and personal fall arrest systems) must be provided for each employee on a scaffold more than 10 feet (3.1 meters) above a lower level. **1926.451(g)(1)**

Each scaffold and scaffold component shall support without failure its own weight and at least 4 times the maximum intended load applied or transmitted to it. Suspension ropes and connecting hardware must support 6 times the intended load. Scaffolds and scaffold components shall not be loaded in excess of their maximum intended loads or rated capacities, whichever is less**. 1926.451(a)(1), (a)(4), (f)(1)**

The scaffold platform shall be planked or decked as fully as possible. **1926.451(b)(1)**

The platform shall not deflect more than 1/60 of the span when loaded. **1926.451(f)(16)**

The work area for each scaffold platform and walkway shall be at least 18 inches (46 centimeters) wide. When the work area must be less than 18 inches (46 centimeters) wide, guardrails and/or personal fall arrest systems shall still be used. **1926.451(b)(2)(ii)**

Access must be provided when the scaffold platforms are more than 2 feet (0.6 m) above or below a point of access. Direct access is acceptable when the scaffold is not more than 14 inches (36 centimeters) horizontally and not more than 24 inches (61 centimeters) vertically from the other surfaces. Crossbraces shall not be used as a means of access. **1926.451(e)(1) and (e)(8**)

A competent person shall inspect the scaffold, scaffold components, and ropes on suspended scaffolds before each work shift and after any occurrence which could affect the structural integrity and authorize prompt corrective action. **1926.450 (b), 451(f)(3)**

Scaffold, Bricklaying

Employees doing overhand bricklaying from a supported scaffold shall be protected by a guardrail or personal fall arrest system on all sides except the side where the work is being done. **1926.451(g)(1)(vi)**

Scaffold, Erectors and Dismantlers

A competent person shall determine the feasibility for safe access and fall protection for employees erecting and dismantling supported scaffolds. **1926.451(e)(9) and (g)(2)**

Scaffold, Fall Arrest Systems

A personal fall arrest system consists of an anchorage, connectors, a body harness, a lanyard, and may include a deceleration device. Anchorages used for attachment shall be capable of supporting at least 5,000 pounds (22.2 kN) per employee attached or shall be designed, installed, and used under the supervision of a qualified person as part of a complete personal fall arrest system which maintains a safety factor of at least two. Personal fall arrest systems used on scaffolds must be attached by lanyard to a vertical lifeline, horizontal lifeline, or scaffold structural member. **1926.502(d)(15) and 1926.451(g)(3)**

Vertical or horizontal lifelines may be used. **1926.451(g)(3)(ii) through (iv)**

Lifelines shall be independent of support lines and suspension ropes and not attached to the same anchorage point as the support or suspension ropes. **1926.451(g)(3)(iii) and (iv)**

Employees must be tied off when working from an aerial lift. Fall restraint systems or personal fall arrest systems may be used. The use of personal fall arrest systems must comply with Subpart M.**1926.453(b)(2)(v) and 1926.502(d)**

Scaffold, Guardrails

Guardrails shall be installed along all open sides and ends of platforms before the scaffold is released for use by employees other than the erection and dismantling crews. Guardrails are not required on the front edge of a platform if the front edge of the platform is less than 14 inches (36 centimeters) from the face of the work. For plastering and lathing, the distance is 18 inches (46 centimeters) or less from the front edge. When outrigger scaffolds are attached to supported scaffolds the distance is 3 inches (8 centimeters) or less from the front edge of the outrigger. **1926.451(b)(3) and (g)(4)**

The toprail for scaffolds must be 38 inches (0.97 meters) to 45 inches (1.2 meters) from the platform. Midrails are to be installed approxi- mately halfway between the toprail and the platform surface. **1926.451(g)(4)(ii) and (iii)**

Toeboards or other barriers are to be used to protect employees working below. **1926.451(h)**

When screens and mesh are used for guardrails, they shall extend from the top edge of the guardrail system to the scaffold platform, and along the entire opening between the supports. **1926.451(g)(4)(v)**

Crossbracing is not acceptable as an entire guardrail system but is acceptable for a toprail when the crossing point of the two braces is between 38 inches (0.9 meters) and 48 inches (1.3 meters) above the work platform and for midrails when between 20 inches (0.5 meters) and 30 inches (0.8 meters) above the work platform. The end points of the crossbracing shall be no more than 48 inches (1.3 meters) apart vertically. **1926.451(g)(4)(xv)**

Scaffolds, Mobile

Scaffolds shall be braced by cross, horizontal, or diagonal braces, or a combination thereof. Scaffolds must be plumb, level, and squared. All brace connections must be secured. **1926.452(w)(1)**

Each employee on a scaffold more than 10 feet above a lower level shall be protected from falling to that lower level by use of guardrail systems or personal fall arrest systems. **1926.451(g)(1), (g)(1) (vii), and (g)(4)**

Scaffold, Planking

Scaffold planking shall be capable of supporting without failure its own weight and at least 4 times the intended load. Solid sawn wood, fabricated planks, and fabricated platforms may be used as scaffold planks, following the recommendations by the manufacturer or a lumber grading association or inspection agency. Tables showing maximum permissible spans, rated load capacity, nominal thickness, etc., are in Appendix A of Subpart L (1)(b) and (c). **1926.451(a)(1)**

Scaffolds, Supported

Supported scaffolds are platforms supported by legs, outrigger beams, brackets, poles, uprights, posts, frames, or similar rigid support. The structural members, poles, legs, posts, frames, and uprights, shall be plumb and braced to prevent swaying and displacement. **1926.451(b) and (c)(3)**

Supported scaffolds poles, legs, posts, frames, and uprights shall bear on base plates and mud sills, or on another adequate firm foundation. **1926.451(c)(2)**

Either the manufacturer's recommendation or the following placements shall be used for guys, ties, and braces: install guys, ties, and braces at the closest horizontal member to the 4:1 height and repeat vertically with the top restraint no further than the 4:1 height from the top:

Vertically

Every 20 feet (6.1 meters) or less for scaffolds less than 3 feet (0.9 meters) wide;

Every 26 feet (7.9 meters) or less for scaffolds more than 3 feet (0.9 meters) wide;

Horizontally

At each end;

At intervals not to exceed 30 feet (9.1 meters) from one end. **1926.451(c)(1)(ii)**

Scaffolds, Suspension (Swing)

Each employee more than 10 feet (3.1 meters) above a lower level shall be protected from falling by guardrails and a personal fall arrest system when working from single or two-point suspended scaffolds and self-contained adjustable scaffolds that are supported by ropes. **1926.451(g)(1)(ii) and (iv)**

Each employee 10 feet (3.1 meters) above a lower level shall be protected from falling by a personal fall arrest system when working from a boatswain's chair, ladderjack, needle beam, float, or catenary scaffolds. **1926.451(g)(1)(i)**

Lifelines shall be independent of support lines and suspension ropes and not attached to the same anchorage point as the support or suspension ropes. **1926.451(g)(3)(iii) and (iv)**

A competent person shall inspect the ropes for defects prior to each workshift and after every occurrence which could affect a rope's integrity, evaluate the direct connections that support the load, and determine if two-point and multi-point scaffolds are secured from swaying. **1926.451(d) (3)(i), (d)(10), (d)(18), (f)(3)**

The use of repaired wire rope is prohibited. **1926.451(d)(7)**

Tiebacks shall be secured to a structurally sound anchorage on the building or structure. **1926.451(d)(3)(ix)**

Tiebacks shall not be secured to standpipes, vents, other piping systems, or electrical conduit. **1926.451(d)(3)(ix) and (d)(5)**

A single tieback shall be installed perpendicular to the face of the building or structure. Two tiebacks installed at opposing angles are required when a perpendicular tieback cannot be installed. **1926.451(d)(3)(x)**

Only those items specifically designed as counterweights shall be used. Sand, gravel, masonry units, rolls of roofing felt, and other such materials shall not be used as counterweights. **1926.451(d)(3)(ii) and (iii)**

Counterweights used for suspended scaffolds shall be made of materials that can not be easily dislocated. **1926.451(d)(3)(ii)**

Counterweights shall be secured by mechanical means to the outrigger beams. **1926.451(d)(3)(iv)**

Signs, Signals, and Barricades (See Flaggers)

Construction areas shall be posted with legible traffic signs at points of hazard. **1926.200 (g)(1)**

Barricades for protection of employees shall conform to Part 6 of the *Manual on Uniform Traffic Control Devices.* **1926.202**

Silica

Appropriate engineering controls, personal protective equipment, respirators, and work practices shall be used to protect employees from crystalline silica. 1**926.55(a) and (b) and OSHA National Emphasis Program on Crystalline Silica 1/24/2008**

Stairs

A stairway or ladder must be provided at all worker points of access where there is a break in elevation of 19 inches (48.3 centimeters) or more and no ramp, runway, sloped embankment, or personnel hoist is provided. **1926.1051(a)**

Except during construction of the actual stairway, skeleton metal frame structures and steps must not be used (where treads and/or landings are to be installed at a later date), unless the stairs are fitted with secured temporary treads and landings. **1926.1052(b)(2)**

When there is only one point of access between levels, it must be kept clear to permit free passage by workers. If free passage becomes restricted, a second point of access must be provided and used. **1926.1051(a)(3)**

When there are more than two points of access between levels, at least one point of access must be kept clear. **1926.1051(a)(4)**

All stairway and ladder fall protection systems must be provided and installed as required by the stairway and ladder rules before employees begin work that requires them to use stairways or ladders and their respective fall protection systems. **1926.1051(b)**

Stairways that will not be a permanent part of the structure on which construction work is performed must have landings at least 30 inches deep and 22 inches wide (76.2 x 55.9 centimeters) at every 12 feet (3.6 meters) or less of vertical rise. **1926.1052(a)(1)**

Stairways must be installed at least 30 degrees, and no more than 50 degrees, from the horizontal. **1926.1052(a)(2)**

Where doors or gates open directly onto a stairway, a platform must be provided, and the swing of the door shall not reduce the effective width of the platform to less than 20 inches (50.8 centimeters). **1926.1052(a)(4)**

Except during construction of the actual stairway, stairways with metal pan landings and treads must not be used where the treads and/or landings have not been filled in with concrete or other material, unless the pans of the stairs and/ or landings are temporarily filled in with wood or other material. All treads and landings must be replaced when worn below the top edge of the pan. **1926.1052(b)(1)**

Stairways having four or more risers, or rising more than 30 inches in height (76.2 centimeters), whichever is less, must have at least one handrail. A stairrail also must be installed along each unprotected side or edge. **1926.1052(c)(1)(i) through (ii)**

Midrails, screens, mesh, intermediate vertical members, or equivalent intermediate structural members must be provided between the top rail and stairway steps of the stairrail system. **1926.1052(c)(4)**

Midrails, when used, must be located midway between the top of the stairrail system and the stairway steps. **1926.1052(c)(4)(i)**

The height of handrails must not be more than 37 inches (93.9 centimeters) nor less than 30 inches (76.2 centimeters) from the upper surface of the handrail to the surface of the tread in line with face of riser at forward edge of tread. **1926.1052(c)(6)**

When the top edge of a stairrail system also serves as a handrail, the height of the top edge must not be more than 37 inches (94 cm) nor less than 36 inches (91.5 cm) from the upper surface of the stairrail system to the surface of the tread, in line with face of riser at forward edge of the tread. **1926.1052(c)(7)**

Temporary handrails must have a minimum clearance of 3 inches (7.6 centimeters) between the handrail and walls, stairrail systems, and other objects. **1926.1052(c)(11)**

Unprotected sides and edges of stairway landings must be provided with guardrail systems. **1926.1052(c)(12)**

Steel Erection

Each employee engaged in a steel erection activity who is on a walking/working surface with an unprotected

side or edge more than 15 feet (4.6 meters) above a lower level shall be protected from fall hazards by guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems. **1926.760(a)(1)**

Connectors more than two stories or 30 feet (9.1 meters) above a lower level, whichever is less, shall be protected by guardrail systems, safety net systems, personal fall arrest systems, positioning devices systems, or fall restraint systems. **1926.760(b)(1)**

Connectors at heights over 15 feet and up to 30 feet above a lower level shall be provided with a personal fall arrest system, positioning device system, or fall restraint system and wear the equipment necessary to be tied off; or be provided with other means of protection from fall hazards in accordance with **1926.760(a)(1). 1926.760(b)(3)**

Training shall be provided for all employees exposed to fall hazards. Special training shall be provided to connectors, workers in controlled decking zones, and those rigging for multiple lifts. **1926.761(c)**

Steel erection begins when written notification that the concrete in the footings, piers, and walls or the mortar in the masonry piers and walls has attained the strength to support the loads imposed during steel erection. **1926.752(b)**

Shear connectors (such as headed steel studs, steel bars or steel lugs), reinforcing bars, deformed anchors or threaded studs shall not be attached to the top flanges of beams, joists or beam attachments so that they project vertically from or horizontally across the top flange of the member until after the metal decking, or other walking/working surface, has been installed. **1926.754(c)(1)**

Columns shall be anchored by a minimum of four anchor rods (anchor bolts). **1926.755(a)(1)**

Solid web structural members shall be secured with at least two bolts per connection before being released from the hoisting line. **1926.756(a)(1)**

Open web joists must be field bolted at each end of the bottom chord before being released from the hoisting line. **1926.757(a)(1)(iii)**

Decking shall be laid tightly and secured. **1926.754(e)(5)**

Controlled decking zones shall be clearly marked and access limited to only those employees engaged in leading edge work. **1926.760(c)(2) and (3)**

Cranes used in steel erection shall be inspected prior to each shift by a competent person. Routes for suspended loads shall be planned to ensure no employee is required to work directly under the load except for connecting or hooking or unhooking. Hooks with self-closing latches shall be used. All loads shall be rigged by a qualified rigger. Multiple lifts shall hoist a maximum of five members. **1926.753(c)(1)(i), (d)(1) and (e)(1)(ii)**

Storage

All materials stored in tiers shall be secured to prevent sliding, falling, or collapsing. **1926.250(a)(1)**

Aisles and passageways shall be kept clear and in good repair. **1926.250(a)(3)**

Storage of materials shall not obstruct exits. **1926.151(d)(1)**

Materials shall be stored with due regard to their fire characteristics. **1926.151(d)(2)**

Tire Cages

A safety tire rack, cage, or equivalent protection shall be provided and used when inflating, mounting, or dismounting tires installed on split rims, or rims equipped with locking rings or similar devices. **1926.600(a)(2)**

Toeboards

Toeboards, when used to protect workers from falling objects, shall be erected along the edge of the overhead walking/working surface. **1926.502(j)(1)**

Toeboards shall be capable of withstanding, without failure, a force of at least 50 pounds (222 N) applied in any downward or outward direction at any point along the toeboard. **1926.502(j)(2)**

A standard toeboard shall be at least 3 1/2 inches (9 centimeters) in height and may be of any substantial material either solid or open, with openings not to exceed 1 inch (2.54 centimeters) in greatest dimension. **1926.502(j)(3)**

Toilets

Toilets shall be provided according to the following: 20 or fewer persons – one facility; 20 or more persons – one toilet seat and one urinal per 40 persons; 200 or more persons – one toilet seat and one urinal per 50 workers. **1926.51(c)(1)**

This requirement does not apply to mobile crews having transportation readily available to nearby toilet facilities. **1926.51(c)(4)**

Training and Inspections

The employer shall initiate and maintain such programs as may be necessary to provide for frequent and regular inspections of the job site, materials, and equipment by designated competent persons. **1926.20(b)(1) through (2)**

The employer should avail himself of the safety and health training programs the Secretary provides. **1926.21(b)(1)**

The employer shall instruct each employee in the recognition and avoidance of unsafe conditions and in the regulations applicable to his work environment to control or eliminate any hazards or other exposure to illness or injury. **1926.21(b)(2)**

The use of any machinery, tool, material, or equipment that is not in compliance with any applicable requirement of Part 1926 is prohibited. **1926.20(b)(3)**

The employer shall permit only those employees qualified by training or experience to operate equipment and machinery. **1926.20(b)(4)**

Underground Construction

The employer shall provide and maintain safe means of access and egress to all work stations. **1926.800(b)(1)**

The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and shall be posted with signs indicating "Keep Out" or similar language. Complete or unused sections of the underground facility shall be barricaded. **1926.800(b)(3)**

Unless underground facilities are sufficiently completed so that the permanent environmental controls are effective and the remaining construction activity will not cause any environmental hazard or structural failure within the facilities, the employer shall maintain a check-in/check-out procedure that will ensure that aboveground designated personnel can determine an accurate count of the number of persons underground in the event of an emergency. **1926.800(c)**

All employees shall be instructed to recognize and avoid hazards associated with underground construction activities. **1926.800(d)**

Hazardous classifications are for "potentially gassy" and "gassy" operations. **1926.800(h)** The employer shall assign a competent person to perform all air monitoring to determine proper ventilation and quantitative measurements of potentially hazardous gases. **1926.800(j)(1)(i)(A)**

Fresh air shall be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors, or gases. **1926.800(k)(1)(i)**

Washing Facilities

The employer shall provide adequate washing facilities for employees engaged in operations involving harmful substances. Washing facilities shall be near the worksite and shall be so equipped as to enable employees to remove all harmful substances. **1926.51(f)**

Water, Working Over or Near

Employees working over or near water, where the danger of drowning exists, shall be provided with U.S. Coast Guard-approved life jackets or buoyant work vests. **1926.106(a)**

Welding, Cutting, and Heating

Employers shall instruct employees in the safe use of welding equipment. **1926.350(d) and 1926.351(d)**

Proper precautions (isolating welding and cutting, removing fire hazards from the vicinity, providing a fire watch) for fire prevention shall be taken in areas where welding or other "hot work" is being done. No welding, cutting, or heating shall be done where the application of flammable paints, or the presence of other flammable compounds or heavy dust concentrations creates a fire hazard. **1926.352(a) through (c) and (f)**

Arc welding and cutting operations shall be shielded by noncombustible or flameproof screens to protect employees and other persons in the vicinity from direct arc rays. **1926.351(e)**

When electrode holders are to be left unattended, the electrodes shall be removed and the holder shall be placed or protected so that they cannot make electrical contact with employees or conducting objects. **1926.351(d)(1)**

All arc welding and cutting cables shall be completely insulated and be capable of handling the maximum current requirements for the job. There shall be no repairs or splices within 10 feet (3 meters) of the electrode holder, except where splices are insulated equal to the insulation of the cable. Defective cable shall be repaired or replaced. **1926.351(b)(1) through (2) and (4)**

Employees performing such operations in the open air shall be protected by filter-type respirators in accordance with the requirements of 1910.134, except that employees performing such operations on beryllium-containing base or filler metals shall be protected with air line respirators in accordance with 1910.134. **1926.353(c)(3)**

Fuel gas and oxygen hose shall be easily distinguishable and shall not be interchangeable. Hoses shall be

inspected at the beginning of each shift and shall be repaired or replaced if defective. **1926.350(f)(1) and (3)**

General mechanical ventilation, local exhaust ventilation, air line respirators, and other protection shall be provided, as required, when welding, cutting or heating:

- Zinc, lead, cadmium, chromium, mercury, or materials bearing, based, or coated with beryllium in enclosed spaces,
- Stainless steel with inert-gas equipment,
- In confined spaces, and
- Where an unusual condition can cause an unsafe accumulation of contaminants. **1926.353(b)(1), (c)(1)(i) through (iv), (c)(2)(i) through (iv), (d)(1) (iv), and (e)(1)**

Proper eye protective equipment to prevent exposure of personnel shall be provided. **1926.353(e)(2)**

Wire Ropes, Chains, and Ropes

Wire ropes, chains, ropes, and other rigging equipment shall be inspected prior to use and as necessary during use to ensure their safety. Defective gear shall be removed from service. **1926.251(a)(1)**

Job or shop hooks and links or makeshift fasteners formed from bolts, rods, or other such attachments shall not be used. **1926.251(b)(3)**

When U-bolts are used for eye splices, the U-bolt shall be applied so that the "U" section is in contact with the dead end of the rope. **1926.251(c) (5)(i)**

When U-bolt wire rope clips are used to form eyes, the following table shall be used to determine the number and spacing of clips. **1926.251(c)(5)**

Table H-2 – Number and Spacing of U-Bolt Wire Rope Clips – 1926.251(c)(5)

Improved plow steel, rope diameter (inches)	Number of clips Drop forged	Other	Minimum spacing (inches)
1/2 (1.27 cm)	3	4	3 (7.62 cm)
5/8 (.625 cm)	3	4	3-3/4 (8.37 cm)
3/4 (.75 cm)	4	5	4-1/2 (11.43 cm)
7/8 (.875 cm)	4	5	5-1/4 (12.95 cm)
1 (2.54 cm)	5	6	6 (15.24 cm)
1-1/8 (2.665 cm)	6	6	6-3/4 (15.99 cm)
1-1/4 (2.79 cm)	6	7	7-1/2 (19.05 cm)
1-3/8 (2.915 cm)	7	7	8-1/4 (20.57 cm)
1-1/2 (3.81 cm)	7	8	9 (22.86 cm)

Woodworking Machinery

All fixed power-driven woodworking tools shall be provided with a disconnect switch that can be either locked or tagged in the off position. **1926.304(a)**

All woodworking tools and machinery shall meet applicable requirements of ANSI 01.1-1961, *Safety Code for Woodworking Machinery*. **1926.304(f)**

Complaints, Emergencies and Further Assistance

Workers have the right to a safe workplace. The *Occupational Safety and Health Act of 1970* (OSH Act) was passed to prevent workers from being killed or seriously harmed at work. The law requires employers to provide their employees with working conditions that are free of known dangers. Workers may file a complaint to have OSHA inspect their workplace if they believe that their employer is not following OSHA standards or that there are serious hazards. Further, the OSH Act gives complainants the right to request that their names not be revealed to their employers. It is also against the law for an employer to fire, demote, transfer, or retaliate in any way against a worker for filing a complaint or using other OSHA rights.

To report an emergency, file a complaint, or seek OSHA advice, assistance, or products, call 1-800- 321-OSHA (6742) or contact your nearest OSHA regional, area, or state plan office at www.osha. gov. The teletypewriter (TTY) number is 1-877-889-5627. You can also visit www.osha.gov/pls/ osha7/eComplaintForm.html to submit the form online. Completed forms can be faxed or mailed to your local OSHA office (provided at the end of this guide). Include your name, address and telephone number so that OSHA can contact you. Most complaints submitted online may be resolved informally over the phone with your employer. Written complaints that are signed by a worker or their representative and submitted to the closest OSHA office, are more likely to result in an on-site OSHA inspection.

OSHA Assistance, Services and Programs

OSHA has a great deal of information to assist employers in complying with their responsibilities under OSHA law. Several OSHA programs and services can help employers identify and correct job hazards, as well as improve their injury and illness prevention program.

Establishing an Injury and Illness Prevention Program

The key to a safe and healthful work environment is a comprehensive injury and illness prevention program.

Injury and illness prevention programs are systems that can substantially reduce the number and severity of workplace injuries and illnesses, while reducing costs to employers. Thousands of employers across the United States already manage safety using injury and illness prevention programs, and OSHA believes that all employers can and should do the same. Thirty-four states have requirements or voluntary guidelines for workplace injury and illness prevention programs. Most successful injury and illness prevention programs are based on a common set of key elements. These include management leadership, worker participation, hazard identification, hazard prevention and control, education and training, and program evaluation and improvement. Visit OSHA's Injury and Illness Prevention Programs web page at www.osha.gov/dsg/topics/ safetyhealth for more information.

Compliance Assistance Specialists

OSHA has compliance assistance specialists throughout the nation located in most OSHA offices. Compliance assistance specialists can provide information to employers and workers about OSHA standards, short educational programs on specific hazards or OSHA rights and responsibilities, and information on additional compliance assistance resources. For more details, visit www.osha.gov/dcsp/compliance_assistance/cas.html or call 1-800-321-OSHA (6742) to contact your local OSHA office.

Free On-site Safety and Health Consultation Services for Small Business

OSHA's On-site Consultation Program offers free and confidential advice to small and medium-sized businesses in all states across the country, with priority given to high-hazard worksites. Each year, responding to requests from small employers looking to create or improve their safety and health management programs, OSHA's On-site

Consultation Program conducts over 29,000 visitsto small business worksites covering over 1.5 million workers across the nation.

On-site consultation services are separate from enforcement and do not result in penalties or citations. Consultants from state agencies or universities work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing safety and health management programs.

For more information, to find the localOn-site Consultation office in your state, or to request a brochure on consultation services, visit www.osha. gov/consultation, or call 1-800-321-OSHA (6742).

Under the consultation program, certain exemplary employers may request participation in **OSHA's Safety and Health Achievement Recognition Program (SHARP)**. Eligibility for participation includes, but is not limited to, receiving a full-service, comprehensive consultation visit, correcting all identified hazards and developing an effective safety and health management program. Worksites that receive SHARP recognition are exempt from programmed inspections during the period that the SHARP certification is valid.

CooperativePrograms

OSHA offers cooperative programs under which businesses, labor groups and other organizations can work cooperatively with OSHA. To find out more about any of the following programs, visit www.osha.gov/dcsp/compliance_assistance/ index_programs.html.

Strategic Partnerships andAlliances

The OSHA Strategic Partnerships (OSP) provide the opportunity for OSHA to partner with employers, workers, professional ortrade associations, labor organizations, and/or other interested stakeholders. OSHA Partnerships are formalized through unique agreements designed to encourage, assist, and recognize partner efforts to eliminate serious hazards and achieve model workplace safety and health practices. Through the Alliance Program, OSHA works with groups committed to worker safety and health to prevent workplace fatalities, injuries and illnesses by developing compliance assistance tools and resources to share with workers and employers, and educate workers and employers about their rights and responsibilities.

Voluntary Protection Programs(VPP)

The VPP recognize employers and workers in private industry and federal agencies who have implemented effective safety and health management programs and maintain injury and illness rates below the national average for their respective industries. In VPP, management, labor, and OSHA work cooperatively and proactively to prevent fatalities, injuries, and illnesses through a system focused on: hazard prevention and control, worksite analysis, training, and management commitment and workerinvolvement.

Occupational Safety and Health Training

The OSHA Training Institute in Arlington Heights, Illinois, provides basic and advanced training and education in safety and health for federal and state compliance officers, state consultants, otherfederal agency personnel and private sector employers, workers, and their representatives. In addition, 27 OSHA Training Institute Education Centers at 42 locations throughout the United States deliver courses on OSHA standards and occupational safety and healthissues to thousands of students a year.

For more information on training, contact the OSHA Directorate of Training and Education, 2020 Arlington Heights Road, Arlington Heights, IL 60005; call 1-847-297-4810; or visit www.osha.gov/otiec.

OSHA Educational Materials

OSHA has many types of educational materials in English, Spanish, Vietnamese and other languages available in print or online. These include:

- Brochures/booklets that cover a wide variety of job hazards and other topics;
- Fact Sheets, which contain basic background information on safety and health hazards;
- Guidance documents that provide detailed examinations of specific safety and health issues;
- Online Safety and Health Topics pages;
- Posters;
- Small, laminated QuickCards™ that provide brief safety and health information; and
- *QuickTakes*, OSHA's free, twice-monthly online newsletter with the latest news about OSHA initiatives and products to assist employers and workers in finding and preventing workplace hazards. To sign up for *QuickTakes* visit www. osha.gov/quicktakes.

To view materials available online or for a listing of free publications, visit www.osha.gov/ publications. You can also call 1-800-321-OSHA (6742) to order publications.

OSHA's website also has a variety of eTools. These include utilities such as expert advisors, electronic compliance assistance, videos and other information for employers and workers. To learn more about OSHA's safety and health tools online, visit www.osha.gov.

NIOSH Health Hazard Evaluation Program

Getting Help with Health Hazards

The National Institute for Occupational Safety and Health (NIOSH) is a federal agency that conducts scientific and medical research on workers' safety and health. At no cost to employers or workers, NIOSH can help identify health hazards and recommend ways to reduce or eliminate those hazards in the workplace through its Health Hazard Evaluation (HHE) Program.

Workers, union representatives and employers can request a NIOSH HHE. An HHE is often requested when there is a higher than expected rate of a disease or injury in a group of workers. These situations may be the result of an unknown cause, a new hazard, or a mixture of sources. To request a NIOSH Health Hazard Evaluation go to www.cdc.gov/niosh/hhe/request.html. To find out more about the Health Hazard Evaluation Program:

- Call (513) 841-4382, or to talk to a staff member in Spanish, call (513) 841-4439; or
- Send an email to HHERequestHelp@cdc.gov.

How to Contact OSHA

For questions or to get information or advice, to report an emergency, report a fatality or catastrophe, order publications, sign up for OSHA's e-newsletter *QuickTakes*, or to file a confidential complaint, contact your nearest OSHA office, visit www.osha.gov or call OSHA at 1-800-321-OSHA (6742), TTY 1-877-889-5627.

For assistance, contact us. We are OSHA. We can help.
It's confidential.

OSHA Regional Offices

Region I
Boston Regional Office (CT*, ME, MA, NH, RI, VT*)
JFK Federal Building, Room E340 Boston, MA 02203
(617) 565-9860 (617) 565-9827 Fax

Region II
New York Regional Office (NJ*, NY*, PR*, VI*)
201 Varick Street, Room 670 New York, NY 10014
(212) 337-2378 (212) 337-2371 Fax

Region III
Philadelphia Regional Office (DE, DC, MD*, PA, VA*, WV)
The Curtis Center
170 S. Independence Mall West Suite 740 West
Philadelphia, PA 19106-3309
(215) 861-4900 (215) 861-4904 Fax

Region IV
Atlanta Regional Office
(AL, FL, GA, KY*, MS, NC*, SC*, TN*)
61 Forsyth Street, SW, Room 6T50 Atlanta, GA 30303
(678) 237-0400 (678) 237-0447 Fax

Region V
Chicago Regional Office (IL*, IN*, MI*, MN*, OH, WI)
230 South Dearborn Street Room 3244
Chicago, IL 60604
(312) 353-2220 (312) 353-7774 Fax

Region VI
Dallas Regional Office (AR, LA, NM*, OK, TX)
525 Griffin Street, Room 602
Dallas, TX 75202
(972) 850-4145 (972) 850-4149 Fax
(972) 850-4150 FSO Fax

Region VII
Kansas City Regional Office (IA*, KS, MO, NE)
Two Pershing Square Building 2300 Main Street, Suite 1010 Kansas City, MO 64108-2416
(816) 283-8745 (816) 283-0547 Fax

Region VIII
Denver Regional Office
(CO, MT, ND, SD, UT*, WY*)
Cesar Chavez Memorial Building 1244 Speer Boulevard, Suite 551
Denver, CO 80204
(720) 264-6550 (720) 264-6585 Fax

Region IX

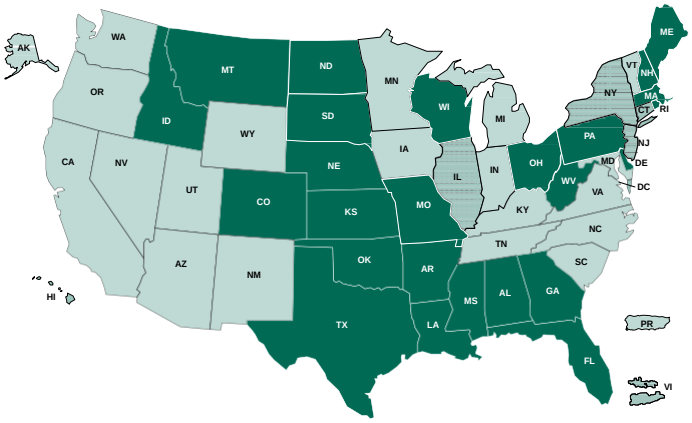
San Francisco Regional Office
(AZ*, CA*, HI*, NV*, and American Samoa, Guam and the Northern Mariana Islands) 90 7th Street, Suite 18100
San Francisco, CA 94103
(415) 625-2547 (415) 625-2534 Fax

Region X
Seattle Regional Office (AK*, ID, OR*, WA*)
300 Fifth Avenue, Suite 1280
Seattle, WA 98104
(206) 757-6700 (206) 757-6705 Fax

* These states and territories operate their own OSHA-approved job safety and health plans and cover state and local government employees as well as private sector employees. The Connecticut, Illinois, New Jersey, New York and Virgin Islands programs cover public employees only. (Private sector workers in these states are covered by Federal OSHA). States with approved programs must have standards that are identical to, or at least as effective as, the Federal OSHA standards.

Note: To get contact information for OSHA area offices, OSHA-approved state plans and OSHA consultation projects, please visit us online at www.osha.gov or call us at 1-800-321-OSHA (6742).

OSHA-Approved State Plans



OSHA-approved state plans (private sector and public employees)

Federal OSHA (private sector and most federal employees)

OSHA-approved state plans (for public employees only; private sector employees are covered by Federal OSHA)

Section 12: TAXES

A key item in operating a business is the fulfillment of tax obligations to both the federal government and the State of Idaho. This section gives a small look at how to pay federal and state income taxes, sales tax and special excise tax. For more information please contact a tax professional, Idaho State Tax Commission or the IRS.

Business owners should also be aware of real property taxes and personal property taxes on office furniture and some equipment. These property taxes are assessed by the county assessor and collected by the county treasurer. In addition, a few localities impose local taxes. These are discussed below.

Income Taxes

Sole Proprietors

To meet their federal income tax obligations, sole proprietors must file an Internal Revenue Service *Form 1040* with *Schedule C* and *Schedule SE* pertaining to self-employment Social Security taxes. To meet state obligations, an Idaho resident must file Idaho *Form 40* (Form 43 for part-year and nonresidents) and attach a copy of the federal return.

The IRS requires estimated tax payments on *Form 1040ES* if the tax owed for the year will exceed $1,000. The state of Idaho does not require individuals to make estimated payments, but voluntary estimated payments can be made on Idaho *Form 51* anytime during the year.

General Partnerships

Federal tax law requires partnerships to file an IRS *Form 1065*. State tax rules require the filing of Idaho *Form 65* with a copy of the federal tax form attached. The tax on income earned by the partnership is generally paid on the partners' returns, including nonresident partners.

Limited Partnerships and Limited Liability Partnerships

For tax purposes, both limited partnerships and limited liability partnerships are treated in the same manner as general partnerships.

S Corporations

An eligible corporation can elect to be treated as an S Corporation by the timely filing of IRS *Form 2553, Election by a Small Business Corporation*. Federal taxes for S corporations are reported using IRS *Form 1120S*. State taxes require a copy of the *1120S* attached to Idaho *Form 41S*. The tax on income earned by an S Corporation is generally paid on the shareholders' returns, including nonresident shareholders.

Corporations

Corporations pay federal taxes using IRS *Forms 1120* or *1120A*. Copies of these forms must be attached to Idaho Form 41 when filing the Idaho corporation income tax return. The IRS and Idaho require corporations to pay quarterly estimates if the tax due will be $500 or more during the tax year. These payments are made using federal *Form 1120W* and Idaho *Form 41ES*. Corporations in their first year of operation in Idaho are not required to pay quarterly estimated payments and may wait until the return due date to pay their first year's income tax.

Limited Liability Companies

For federal tax purposes, certain business entities automatically are classified as corporations. Other business entities may choose how they are classified for federal tax purposes by filing *Form 8832* with the IRS. See *Form 8832* for more details. Idaho taxes these companies the same way they are taxed for federal purposes.

Other Taxes

More information on sales and use taxes and exemptions can be found in a series of brochures specific to various industries. These brochures may be obtained from the Idaho State Tax Commission or from its Internet site: www.tax.idaho.gov.

Idaho Sales and Use Tax

Idaho has a six-percent (6%) sales tax on retail sales, leases or rentals of tangible personal property. The tax also applies to fees for admissions, recreation, hotel/motel/campground accommodations, and some types of labor. A six-percent (6%) use tax is due on the use, consumption or storage of tangible personal property in Idaho on which sales tax was not paid. Companies without an Idaho presence are not required to collect Idaho's sales tax. Therefore, many mail order and Internet purchases are subject to use tax because sales tax was not collected or paid

Businesses making retail sales must obtain an Idaho *Seller's Permit and collect sales tax from customers on taxable sales.* This permit can be used to record and pay use tax on purchases as well, Those businesses that have no sales but have purchases subject to use tax need a *Use Tax Account Number* in order to pay that tax. Obtain these by completing and submitting Idaho Business Registration Form (Form IBR-1) at www.business.idaho.gov or by sending a paper copy of the form to the Idaho Tax Commission. Fill out the Order Form in the back of this booklet to obtain a paper copy. Upon receipt of the form, the Tax Commission will issue a permit number along with instructions on how and when to remit the tax.

There are several sales and use tax exemptions. A purchaser may use a *Sales Tax Resale or Exemption Certificate (Form ST-101)* to make exempt purchases from Idaho retailers. Examples include purchases of goods for resale or purchases of materials used directly in the production of items for intended for resale.

Special Excise and Other Taxes

Both the federal government and the state of Idaho apply special excise taxes to specific products and commodities. The following excise tax lists are not comprehensive, but they do identify some of the taxes that apply to businesses. Businesses are encouraged to contact the IRS and the Idaho State Tax Commission to determine which taxes are applicable.

Federal Excise Tax

- Telephone communications and air transportation
- Manufacturers tax on a variety of goods.
- Retail and use tax on motor fuels and certain new heavy truck sales
- Windfall profit tax on domestic crude oil production
- Environmental tax on receipt of hazardous materials
- Environmental tax on manufacturing petroleum and chemicals
- Tax on the use of highways by heavy trucks and buses
- Production, sales, or importation of alcohol, tobacco, or firearms
- Luxury tax

Idaho State Excise and Other Taxes

- Beer and wine tax – paid by distributors
- Insurance tax – paid to the Department of Insurance by insurers
- Cigarette and tobacco tax – paid by wholesalers or importers
- Coin operated amusement device annual decals – paid by owners or operators
- International Fuel Tax Agreement Licenses – paid by interstate truckers
- Mine license tax – paid by miners or royalty recipient
- Motor fuels tax – paid by hydroelectric power producers

Property Taxes

Contact your local county assessor for details. Personal property used in a business, such as a desk or a computer, is considered taxable property. The business owner is required to report all taxable personal property to the county assessor annually and to pay a tax based upon the assessed value of the property to the county treasurer's office. Real property in Idaho is also taxable.

Taxpayer Identification Number

Every business, except a sole proprietor with no employees, must obtain a federal Employer Identification Number. This number is necessary when the business files its tax returns, and may be required by banks and corporations with whom you do business. A business can obtain an EIN from the U.S. IRS by filing *Form SS-4* either over the Internet or by U.S. mail, or by phoning (800) 829-4933.

The IRS publishes a CD-ROM on federal tax matters relevant to small businesses: *Introduction to Federal Taxes for Small Businesses and Self-Employees: Get Your Business Off to a Successful Start*. It is available from the Internal Revenue Service by phoning 1-800-TAXFORM and requesting Publication Number 3693. Another training resource for Small Business, is available at www.irs.gov/businesses. Once there, select Small Business Events or Small Business Videos.

For information, documents, and assistance contact the following offices:

Federal Taxes
Internal Revenue Service
Taxpayer Service
Federal Building, Room 327
550 West Fort St., MSC 041
Boise, ID 83724-0041
IRS Phone Tax Service: (800) 829-1040
www.irs.gov

State Taxes
Boise
Idaho Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722
(208) 334-7660, (800) 972-7660
Fax: (208) 334-7846
www.tax.idaho.gov
Refund Line: 364-7389, (888) 228-5770

Coeur d'Alene
Idaho Tax Commission
1910 NW Blvd., Suite 100
Coeur d'Alene, ID 83814
(208)769-1500, fax: (208)769-1505

Idaho Falls
Idaho Tax Commission
150 Shoup Ave., Suite 16
Idaho Falls, ID 83402
(208) 525-7116, fax: (208)525-7154

Lewiston
Idaho Tax Commission
1118 "F" St.
P.O. Box 1014
Lewiston, ID 83501
(208) 799-3491, fax: (208)799-5053

Pocatello
Idaho Tax Commission
611 Wilson St., Suite 5
Pocatello, ID 83201-5029
(208) 236-6244, fax: (208) 233-6134

Twin Falls
Idaho Tax Commission
1038 Blue Lakes Blvd. N., Suite C
P.O. Box 5227
Twin Falls, ID 83303
(208) 736-3040, fax: (208) 736-3043

Special Requirements for Businesses with Employees

Businesses that have employees must pay employment and unemployment taxes, acquire workers' compensation insurance and follow labor guidelines. They also must report to the state when they hire new employees.

As a business owner, when another person performs work for you, you must first correctly classify that person as an independent contractor or employee.

Federal Employment Taxes

Employment taxes include:

- Social security and Medicare taxes
- Federal income tax withholding
- Federal unemployment (FUTA) tax

IRS Publication 15, Circular E, Employer's Tax Guide, explains an employer's tax responsibilities.

Independent Contractor or Employee?

In Idaho, a worker's status as an employee or an independent contractor is determined based on the four main criteria commonly referred to as "the right to control test." Considered collectively, the four right to control factors distinguish an employee from an independent contractor. The determination of status is open-ended because it requires a factual judgment over whether a case meets the overall test. This approach neither prioritizes criteria nor specifies a minimum number that must be met. The Idaho Supreme Court has repeatedly recognized that those cases where there is doubt about whether a worker is an independent contractor or employee are to be resolved in favor of finding the worker to be an employee.

1. **Direct Evidence of the Right to Control**
    - Compliance with instructions – Control is present if the person for whom the services are performed has the right to require compliance with instructions.
    - Training – Training through meetings, attending classes, or apprenticeship with a more experienced worker indicates the right to control.
    - Integration – Integration of the worker's services into the principal's business operations shows that the worker is subject to direction and control.
    - Services rendered personally – If the services must be rendered personally, then the right to control is suggested.
    - Hiring, firing, supervising, and paying assistants – If the person for whom services are rendered hires, discharges, and pays workers, then that factor shows control over all workers. If a worker engages his own assistants, he may be an independent contractor.
    - Set hours of work – Control is indicated is set hours of work are established by the person for whom services are rendered.
    - Full time required – If the worker devotes substantially full time to the business of the person for whom services are rendered, such person has control over the amount of time the worker can work and impliedly restricts the worker from doing other gainful work.

- Order or sequence determined by principal – If the worker performs services in the order or sequence determined by the person for whom the services are performed, the worker is likely an employee.
- Oral or written reports – A requirement that the worker submit regular oral or written reports to the principal indicates control.
- Payment of business and/or traveling expenses – If the principal ordinarily pays the worker's business or traveling expenses, then the worker is usually considered an employee.
- Working for more than one firm at a time – If a worker performs service for several unrelated persons or firms at a time, this indicates an independent contractor relationship.
- Making service available to the general public – If a worker makes services available to the general public on a regular and consistent basis, this indicates an independent contractor relationship.
- Competitive selection among subcontractors – If the principal uses some competitive means for reducing his own cost in selecting a subcontractor, then the principal may be a prime contractor instead of an employer.

2. Method of Payment

- Payment on a regular, periodic basis – Payment by the hour, week, day, month or other regular periodic interval generally points to an employer-employee relationship.
- Realization of profit or loss – A worker who can realize profit or suffer a loss as a result of worker's services (beyond the profit or loss ordinarily realized by the employees) is generally considered an independent contractor.

3. Furnishing of Major Items of Equipment

- Doing work on the employer's premises – If the work is done on the premises of the person for whom the services are performed, this shows control over the worker, especially if the work could be done somewhere else.
- Furnishing tools and equipment – If the person for whom services are performed furnishes significant tools, materials, or other equipment, this indicates a direct employment relationship.
- Significant investment – If the worker invests in facilities used in performing services and that are not typically maintained by employees, this indicates an independent contractor relationship.
- Realization of profit or loss – This factor overlaps the method of payment but addresses whether sale of the business assets would provide the worker with a gain or recovery. If so, he may be an independent contractor.

4. Right to Terminate Relationship without Liability

- Continuing relationship – A continuing relationship between the worker and the principal indicates a direct employment relationship, even if the work is performed at recurring irregular intervals.
- Right of employer to discharge – The principal's right to discharge the worker without liability indicates a direct employment relationship.
- Employee's right to terminate – If the worker has the right to stop working at any time without contractual liability, this is indicative of an employment relationship.

If the person is an independent contractor:

Forms and Associated Taxes for Independent Contractors

Form W-9
If you've made the determination that the person you're paying is an independent contractor, the first step is to have the contractor complete Form W-9 (PDF), Request for Taxpayer Identification Number and Certification. This form can be used to request the correct name and Taxpayer Identification Number, or TIN, of the worker. A TIN may be either a Social Security Number (SSN), or an Employer Identification Number (EIN). The W-9 (PDF) should be kept in your files for four years for future reference in case of any questions from the worker or the IRS.

Form 1099-MISC
Form 1099-MISC (PDF) is most commonly used by payers to report payments made in the course of a trade or business to others for services.

If you paid someone who is not your employee, such as a subcontractor, attorney or accountant $600 or more for services provided during the year, a Form 1099-MISC (PDF) needs to be completed, and a copy of 1099-MISC (PDF) must be provided to the independent contractor by January 31of the year following payment. You must also send a copy of this form to the IRS by February 28 (although the form does not have to be sent to the IRS until March 31 if the business files the 1099s electronically, using the FIRE system).

Also note that independent contractors may have their own employees or may hire other independent contractors (subcontractors). In either case, they should be aware of their tax responsibilities, including filing and reporting requirements, for these workers.
There are certain situations where a 1099 is not required. These exceptions are listed in the 1099 Instructions (PDF).

If the person is classified as an employee:

You must have an Employer Identification Number (EIN). You tax responsibilities include withholding, depositing, reporting, and paying employment taxes. You must also give certain forms to your employees, they must give certain forms to you, and you must send certain forms to the IRS and SSA.

If you hire employees there is information that you need to secure for your records and forms that you must complete.

- Eligibility to Work in the United States
- Employee's Social Security Number (SSN)
- Employee's Withholding

Eligibility to Work in the United States
You must verify that each new employee is legally eligible to work in the United States. Have the employees you hire fill out Form I-9, Employment Eligibility Verification (PDF).

Employee's Social Security Number (SSN)
You are required to get each employee's name and Social Security Number (SSN) and to enter them on Form W-2. (This requirement also applies to resident and nonresident alien employees.) You should ask your employee to show you his or her social security card. The employee may show the card if it is available. You may, but are not required to, photocopy the social security card if the employee provides

it. Record each new employee's name and social security number from his or her social security card. Any employee without a social security card should apply for one using Form SS-5, Application for Social Security Card (PDF). The Social Security Administration (SSA) offers social security number (SSN) verification and quick access to relevant forms and publications.

Do not accept an ITIN in place of an SSN for employee identification or for work. An ITIN is only available to resident and nonresident aliens who are not eligible for U.S. employment and need identification for other tax purposes. You can identify an ITIN because it is a 9-digit number, beginning with the number "9" and is formatted like an SSN (NNN-NN-NNN).

Note: An individual with an ITIN who later becomes eligible to work in the United States must obtain an SSN.

Employee's Withholding

To know how much income tax to withhold from employees' wages, you should have a Form W-4, Employee's Withholding Allowance Certificate (PDF), on file for each employee. Ask all new employees to give you a signed Form W-4 when they start work. Make the form effective with the first wage payment. If employees claim exemption from income tax withholding, they must indicate this on their W-4. The amount of income tax withholding must be based on filing status and withholding allowances as indicated on the form. If a new employee does not give you a completed Form W-4, withhold tax as if he or she is single, with no withholding allowances. Additional withholding may be required on wages paid to non-resident aliens.

A Form W-4 remains in effect until the employee gives you a new one. If employees claim exemption from income tax withholding, they must give you a new Form W-4 each year. If an employee gives you a Form W-4 that replaces an existing Form W-4, begin withholding no later than the start of the first payroll period ending on, or after the 30th day, from the date you received the replacement Form W-4. For exceptions and invalid Forms W-4, refer to Publication 15 Circular E, Employer's Tax Guide.

You may also refer your employees to the withholding allowance calculator. Remember that this application is to help employees to ensure that they do not have too much or too little income tax withheld from their pay. It is not a replacement for Form W-4, but most people will find it more accurate and easier to use than the worksheets that accompany Form W-4. They may use the results of this program to help them complete a new Form W-4, which they will submit to their employer.

Recordkeeping for Tax Preparation

It is necessary for a contractor to keep accurate records so that a tax return can be prepared. For a complete list of what records and items should be retained please contact a licensed tax professional, IRS, or the Idaho State Tax Commission.

All books and records must be retained and made available for the IRS in case of an audit.

The length of time you should keep a document depends on the action, expense, or event the document records. Generally, you must keep your records that support an item of income or deductions on a tax return until the period of limitations for that return runs out.

The period of limitations is the period of time in which you can amend your tax return to claim a credit or refund, or that the IRS can assess additional tax. The below information contains the periods of limitations that apply to income tax returns. Unless otherwise stated, the years refer to the period after the return was filed. Returns filed before the due date are treated as filed on the due date.

Note: Keep copies of your filed tax returns. They help in preparing future tax returns and making computations if you file an amended return.

1. You owe additional tax and situations (2), (3), and (4), below, do not apply to you; keep records for 3 years.
2. You do not report income that you should report, and it is more than 25% of the gross income shown on your return; keep records for 6 years.
3. You file a fraudulent return; keep records indefinitely.
4. You do not file a return; keep records indefinitely.
5. You file a claim for credit or refund* after you file your return; keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later.
6. You file a claim for a loss from worthless securities or bad debt deduction; keep records for 7 years.
7. Keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

The following questions should be applied to each record as you decide whether to keep a document or throw it away.

Are the records connected to assets?

Keep records relating to property until the period of limitations expires for the year in which you dispose of the property in a taxable disposition. You must keep these records to figure any depreciation, amortization, or depletion deduction and to figure the gain or loss when you sell or otherwise dispose of the property.

Generally, if you received property in a nontaxable exchange, your basis in that property is the same as the bases of the property you gave up, increased by any money you paid. You must keep the records on the old property, as well as on the new property, until the period of limitations expires for the year in which you dispose of the new property in a taxable disposition.

What should I do with my records for nontax purposes?

When your records are no longer needed for tax purposes, do not discard them until you check to see if you have to keep them longer for other purposes. For example, your insurance company or creditors may require you to keep them longer than the IRS does.

IDAHO

Tax Commission
#40 CONTRACTORS

An Educational Guide to Sales Tax in the State of Idaho

This brochure is intended to help contractors understand the sales tax laws that apply to their business. This information is based on the sales tax laws and rules in effect on September 1, 2006.

Who is a contractor?

A contractor is anyone who builds, improves, repairs, or alters *real property*, either commercial or residential. Contractors include prime contractors, general contractors, subcontractors, and "speculation" contractors. Speculation contractors build on property they own in anticipation of selling it later.

Examples of contractors include:

bricklayers	fence builders
electricians	carpet layers
land levelers	plumbers
mechanical contractors	roofers
window installers	landscapers
drywall installers	pump installers
garage door installers	painters
sheet metal contractors	well drillers
heating and air conditioning installers	

What if I only do residential repairs?

You're considered a contractor by Idaho law. The information in this brochure applies to you.

What is real property?

"Real property" refers to land and improvements or fixtures to the land.

Improvements or fixtures include things that are physically attached to the land or to other improvements. *For example*, a house and fence are both improvements to the land on which they're built. Improvements and fixtures also include things attached in such a way that they'd be sold along with the land. *For example*, you'd expect to leave the light fixtures in a home you sold because they're attached to the property.

What's the difference between a contractor, a retailer, and a contractor/retailer?

A contractor installs or attaches materials to real property. A retailer sells goods, but doesn't attach them to the real property. A contractor/retailer does both.

How does sales tax apply to a contractor?

The sales tax law says a contractor is the consumer of the goods he uses. Therefore, he must pay sales tax on all his purchases.

Contractors owe sales tax when they buy equipment, tools, and supplies used in their business. They must also pay sales tax when they buy building materials and fixtures. "Fixtures" include lighting or plumbing fixtures, furnaces, boilers, heating or air-conditioning units, refrigeration units, elevators, hoists, awnings, vaults, cabinets, counters, carpet, garage doors, water heaters, etc.

If a contractor makes purchases and isn't charged sales tax, he must pay use tax. The contractor must get a use tax number from the Idaho State Tax Commission and file use tax returns. The use tax rate is the same as the sales tax rate.

What if the customer is exempt from sales tax?

Even if the customer is exempt from paying sales tax, as in the case of a government agency, the contractor must still pay tax on his purchases.

What if the customer has direct pay authority?

Some project owners may be granted direct pay authority by the Tax Commission. This means they buy tangible personal property exempt from tax and, if tax is due, pay it directly to the state instead of the supplier.

A contractor may not make exempt purchases using the customer's direct pay authorization. This authority can't be transferred.

A contractor must also pay tax on the materials he installs into real property even when project owners give him a copy of their direct pay authorization.

What if the customer provides the job materials?

If a project owner buys materials for a job and pays sales or use tax, the contractor who installs these materials doesn't owe any additional tax. However, if the owner hasn't paid tax on the materials he gives to the contractor, the contractor must pay use tax on the value of those materials. This occurs most often when the contractor does work for a project owner who is exempt from paying tax, as in the case of a nonprofit hospital, school, or government agency.

If a contractor fabricates material for a job, how much tax applies?

If a contractor fabricates his job materials, the amount of use tax he owes is based on the value of the material at the time he first handles it for a specific project to improve real property. *For example*, if a contractor buys steel for a specific job and fabricates it for use on that job, he owes use tax only on the materials he has purchased.

However, if the contractor fabricates steel and puts it into a resale inventory for future use, he owes tax on the full value of the fabricated steel when he incorporates it into real property. That value is called the "fabricated value" and includes the cost of the materials plus the fabrication labor.

Should a contractor charge sales tax on the materials he installs?

No. A contractor doesn't charge his customers sales tax. His bid should be high enough to cover any taxes he's had to pay on materials without itemizing sales tax on his bid. If he does charge sales tax, his customer can refuse to pay it.

Example: A cabinetmaker agrees to build cabinets and install them in a home. He bids the job for labor and materials.
The materials cost him $1,000. If the tax rate is 6%, he must pay $60 sales tax to his material supplier or, if the supplier doesn't collect Idaho sales tax, he must pay $60 use tax to the state. When he bills his customer, he has a materials cost of $1,060. He reimburses himself for his material costs (including the tax he paid), but he *doesn't* charge his customer sales tax.

The bill might read:
Job materials $1,060
Labor $3,000

How does sales tax apply to a retailer?

A retailer must get a seller's permit to collect and pay sales tax. A cabinetmaker who builds cabinets and delivers them to another contractor to install in a home is a retailer. As a retailer, the cabinetmaker must collect sales tax on the full retail sales price of the cabinets, including the labor to make them.

His bill might read:
Materials to build cabinets $1,000
Labor to build cabinets $2,500
Sales tax on $3,500 $ 210*
(*If the tax rate is 6%)

How does sales tax apply to a contractor/retailer?

Many contractors are also retailers. Plumbers, electricians, carpetlayers, cabinetmakers, and mechanical contractors, to name a few, are usually both contractors and retailers. They are contractors when they install materials in the course of a residential or commercial service call or contract; but when they sell items or materials they don't install, they are retailers and need to collect sales tax from their customers.

If you're a contractor/retailer, you must ensure that the correct tax is paid. Since part of your materials will be subject to tax on cost (when you act as a contractor), and part will be subject to the collection of sales tax (when you act as a retailer), you must keep records that allow you to properly account for the tax.

You may follow any consistent procedure that properly accounts for the tax due. *For example*, if the majority of your business is in retailing, you may want to buy all your materials without tax by giving your supplier a completed form ST-101, Sales Tax Resale or Exemption Certificate. For more information on exempt sales, see Brochure #5 – Retailers and Wholesalers: Making Exempt Sales. When you retail the goods, you will collect sales tax. If you install the materials into real property, you will owe use tax on the cost of the goods.

Are there other ways I can account for the tax?

If the majority of your business involves contracting, you may want to pay tax on all materials as you buy them. Then, if you install the goods into real property, you've paid the sales tax and no use tax is due. If you sell goods at retail and collect sales tax from the customer, you can take an adjustment on your sales tax return to subtract the tax you paid the vendor on the items you resold from the tax you owe the state. You must attach documents or a letter of explanation to support your adjustment when filing your return.

Another commonly-used method of recordkeeping is maintaining a resale inventory purchased without paying sales tax. Then you pay use tax when materials are taken from inventory, and you pay sales tax when buying materials for major contracting jobs.

How should I handle a contract where I'm both a contractor and a retailer?

When you're bidding a job with mixed contract services and retail goods, be sure to separate these on your invoice to the customer, and be sure to charge tax on the retail portion.

For example: Let's say you're a cabinetmaker who contracts to build kitchen cabinets and a freestanding china hutch for a homeowner. If you install the kitchen cabinets, you're acting as a contractor and owe tax on your material costs. But since the hutch is freestanding (not installed into real property), you're acting as a retailer and must collect tax from the homeowner on the retail sales price of the hutch (including your labor to build it).

Your bill might read:

Furnish and install kitchen cabinets		$5,000
Build freestanding hutch	$1,000	
Sales tax on hutch	$ 60*	
(*If the tax rate is 6%)		
		$1,060
Total		$6,060

Do contractors qualify for any exemptions?

A special exemption applies to contractors working in states with no sales tax (e.g. Montana, Oregon, and Alaska). Nonspeculation jobs in Washington also qualify for this exemption if the project owner isn't the federal government. (In a nonspeculation job, the contractor doesn't own the real property.) A contractor doesn't have to pay tax on materials delivered to him in Idaho *as long as* those materials will be incorporated into real property on his job in a state with no sales tax. To claim the exemption, the contractor must complete form ST-101 and give it to the vendor.

Contractors who fabricate production machinery for a manufacturer may make tax-free purchases of the materials that become part of the production equipment. They must give the vendor a completed form ST-101 for his records.

Contractors who install equipment used in agricultural irrigation, such as pumps and pipes, can buy these materials tax exempt. They must give the vendor a completed form ST-101.

A contractor who is an enrolled member of an Indian tribe with a job on the reservation may take delivery of materials on the reservation without owing sales or use tax. However, tax applies if the materials are delivered to an American Indian contractor off the reservation. A non-Indian contractor improving real property on an Indian reservation usually is subject to sales and use tax.

Am I responsible for my subcontractor's sales or use taxes?

No. If you hire a subcontractor to furnish and install materials, he is responsible for the tax on the materials he buys.

However, if you buy the materials and hire a subcontractor to install them, you must pay the tax on the materials. If you don't, either you or the subcontractor can be held liable for the tax.

Does a contractor have to pay tax when he applies rock?

A contractor who applies crushed rock is improving real property. If the contractor buys the crushed rock, he must pay tax on the purchase price. If the crushed rock is provided by the project owner or government agency that hasn't paid tax on the rock or the crushing services, the contractor owes tax on the value of the rock. The value is the "crushed value" (what a buyer would pay to a gravel pit owner for this type of crushed rock). If the contractor who applies the rock also crushed it, the value of the rock is the raw material cost (generally the royalty fee).

Does a contractor have to pay tax when he crushes and stockpiles rock?

When a rock crusher contracts to crush and stockpile rock owned by another, he is not a contractor improving real property. Instead, he is a retailer of taxable processing services.

The rock crusher must get a seller's permit number and charge sales tax on his retail sale of crushing services (including mobilization fees). If his customer is exempt from paying sales tax, as in the case of a state or federal government agency, no tax applies.

What if the buyer of crushing services will resell the crushed rock?

If the rock crusher is crushing and stockpiling rock for a customer who will resell it, the services aren't taxable if the buyer provides a completed resale certificate (form ST-101).

The rock crusher may qualify for the production exemption on his equipment, fuel, and certain supplies if the majority of his business is crushing rock that will be resold. This is true even if the crusher isn't the owner of the rock. For more information on the production exemption and mining, see Brochures #30 – The Production Exemption and #34 –Mining.

Are subcontractors who work at the INL exempt from sales tax?

No. Subcontractors who improve real property at the Idaho National Laboratory must pay tax on purchases for these projects, just as they would for other real property improvements.

For more information, read:

Brochure #2	Use Tax
Brochure #5	Retailers and Wholesalers: Making Exempt Sales
Brochure #30	The Production Exemption
Rules 12, 13, 14, and 15	The Contractor Rules
Rule 16	Retail Sale of Asphalt, Concrete, and Concrete Products

For more information, contact:
- **Idaho State Tax Commission: In the Boise area, 334-7660; Toll free, (800) 972-7660**
- **Hearing impaired: TDD (800) 377-3529**
- **tax.idaho.gov**

This information was prepared by the Idaho State Tax Commission. It does not provide comprehensive explanations of Idaho tax laws or rules. Specific questions should be addressed to the Tax Commission or a qualified tax practitioner.

Section 13: LIEN LAWS

A lien is a form of security interest granted over an item of property to secure the payment of a debt or performance of some obligation. Mortgages, tax liens, and mechanical liens are common types of property liens.

In the construction industry, mechanical liens are used to secure payment for work done on property or land.

The following are the mechanical and materialmen lien laws for the state of Idaho:

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-501. Right to lien. Every person performing labor upon, or furnishing materials to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dike, flume, tunnel, fence, machinery, railroad, wagon road, aqueduct to create hydraulic power, or any other structure, or who grades, fills in, levels, surfaces or otherwise improves any land, or who performs labor in any mine or mining claim, and every professional engineer or licensed surveyor under contract who prepares or furnishes designs, plans, plats, maps, specifications, drawings, surveys, estimates of cost, on-site observation or supervision, or who renders any other professional service whatsoever for which he is legally authorized to perform in connection with any land or building development or improvement, or to establish boundaries, has a lien upon the same for the work or labor done or professional services or materials furnished, whether done or furnished at the instance of the owner of the building or other improvement or his agent; and every contractor, subcontractor, architect, builder or any person having charge of any mining claim, or of the construction, alteration or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner for the purpose of this chapter: provided, that the lessee or lessees of any mining claim shall not be considered as the agent or agents of the owner under the provisions of this chapter.

For purposes of this chapter the term "furnishing material" shall also include, notwithstanding any other provision of law to the contrary, supplying, renting or leasing equipment, materials or fixtures as defined in section 28-12-309, Idaho Code.

"Furnishing material" shall also include renting, leasing or otherwise supplying any equipment, materials, fixtures or machinery to any mine or mining claim.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-504. Lien for improving lots. Any person who, at the request of the owner of any lot in any incorporated city or town, surveys, grades, fills in, or otherwise improves the same, or who rents, leases or otherwise supplies equipment, materials or fixtures as defined in section 28-12-309, Idaho Code, to such person for the improvement of any lot, or the street in front of or adjoining the same, has a lien upon such lot for his work done or material furnished or equipment, materials or fixtures as defined in section 28-12-309, Idaho Code, rented, leased or otherwise supplied.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-505. Land subject to lien. The land upon which or in connection with which any professional services are performed or any building, improvement or structure is constructed, together with a convenient space about the same, or so much as may be required for the convenient use and occupation thereof, to be determined by the court on rendering judgment, is also subject to the lien, if, at the commencement of the furnishing of professional services or other work, the furnishing of the material, or the renting, leasing or otherwise supplying of equipment, materials or fixtures as defined in section 28-12-309, Idaho Code, for the same, the land belonged to the person who caused said professional services to be performed or said building, improvement or structure to be constructed, altered or repaired, or such person was acting as the agent of the owner, but if such person owns less than a fee simple estate in such land, then only the interest of the person or persons causing the services or improvement therein is subject to such lien.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-506. Liens preferred claims. The liens provided for in this chapter shall be on equal footing with those liens within the same class of liens, without reference to the date of the filing of the lien claim or claims and are preferred to any lien, mortgage or other encumbrance, which may have attached subsequent to the time when the building, improvement or structure was commenced, work done, equipment, materials or fixtures were rented or leased, or materials or professional services were commenced to be furnished; also to any lien, mortgage, or other encumbrance of which the lienholder had no notice, and which was unrecorded at the time the building, improvement or structure was commenced, work done, equipment, materials or fixtures were rented or leased, or materials or professional services were commenced to be furnished.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-507. Claim of lien.
(1) Any person claiming a lien pursuant to the provisions of this chapter must file a claim for record with the county recorder for the county in which such property or some part thereof is situated.
(2) The claim shall be filed within ninety (90) days after the completion of the labor or services, or furnishing of materials.
(3) The claim shall contain:
(a) A statement of his demand, after deducting all just credits and offsets;
(b) The name of the owner, or reputed owner, if known;
(c) The name of the person by whom he was employed or to whom he furnished the materials; and
(d) A description of the property to be charged with the lien, sufficient for identification.

(4) Such claim must be verified by the oath of the claimant, his agent or attorney, to the effect that the affiant believes the same to be just.

(5) A true and correct copy of the claim of lien shall be served on the owner or reputed owner of the property either by delivering a copy thereof to the owner or reputed owner personally or by mailing a copy thereof by certified mail to the owner or reputed owner at his last known address. Such delivery or mailing shall be made no later than five (5) business days following the filing of said claim of lien.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-508. Claims against two buildings. In every case in which one (1) claim is filed against two (2) or more buildings, mines, mining claims, or other improvements, owned by the same person, the person filing such claim must, at the same time, designate the amount due him on each of said buildings, mines, mining claims, or other improvement; otherwise the lien of such claim is postponed to other liens. The lien of such claim does not extend beyond the amount designated as against other creditors having liens by judgment, mortgage, or otherwise, upon either of such buildings, or other improvements, or upon the land upon which the same are situated.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-509. Record of lien claims. The county recorder must record the claims mentioned in this chapter in a book kept by him for that purpose, which record must be indexed, as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are allowed by law for recording deeds or other instruments.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-510. Duration of lien. No lien provided for in this chapter binds any building, mining claim, improvement or structure for a longer period than six (6) months after the claim has been filed, unless proceedings be commenced in a proper court within that time to enforce such lien; or unless a payment on account is made, or extension of credit given with expiration date thereof, and such payment or credit and expiration date, is endorsed on the record of the lien, then six (6) months after the date of such payment or expiration of extension. The lien of a final judgment obtained on any lien provided for in this chapter shall cease five (5) years from the date the judgment becomes final, but if such period of five (5) years has expired or will expire before September 1, 1947, the owner of such judgment lien shall have until September 1, 1947, within which to levy execution under such judgment.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-511. Recovery by contractor -- Deduction of debts to subcontractors. The original or subcontractor shall be entitled to recover, upon the claim filed by him, only such amount as may be due to him according to the terms of his contract, and, if applicable, such other amounts as may be found due to the lien claimant by the court pursuant to section 45-522, Idaho Code, after deducting all claims of other parties for work done and materials furnished to him as aforesaid, of which claim of lien shall have been filed as required by this chapter, and in all cases where a claim shall be filed under this chapter for work done or materials furnished to any subcontractor, he shall defend any action brought thereupon at his own expense; and during the pendency of such action, the person indebted to the contractor may withhold from such contractor the amount of money for which claim is filed; and in case of judgment upon the lien, the person indebted in the contract shall be entitled to deduct from any amount due or to become due by him to such contractor, the amount of such judgment and costs; and if the amount of such judgment and costs shall exceed the amount due from him to such contractor, if the person indebted in the contract shall have settled with such contractor in full, he shall be entitled to recover back from such contractor any amount so paid by him in excess of the contract price, and for which such contractor was originally the party liable.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-512. Judgment to declare priority. In every case in which different liens are asserted against any property, the court in the judgment must declare the rank of each lien or class of liens which shall be in the following order:

1. All laborers, other than contractors or subcontractors.
2. All materialmen including persons furnishing, renting or leasing equipment, materials or fixtures as defined in section 28-12-309, Idaho Code, other than contractors or subcontractors.
3. Subcontractors.
4. The original contractor.
5. All professional engineers and licensed surveyors.

And in case the proceeds of sale under this chapter shall be insufficient to pay all lienholders under it:

1. The liens of all laborers, other than the original contractor and subcontractor, shall first be paid in full, or pro rata if the proceeds be insufficient to pay them in full.
2. The lien of materialmen including persons furnishing, renting or leasing equipment, materials or fixtures as defined in section 28-12-309, Idaho Code, other than the original contractor or subcontractor, shall be paid in full, or pro rata if the proceeds be insufficient to pay them in full.
3. Out of the remainder, if any, the subcontractors shall be paid in full, or pro rata if the remainder be insufficient to pay them in full, and the remainder, if any, shall be paid pro rata to the original contractor and the professional engineers and licensed surveyors; and each claimant shall be entitled to execution for any balance due him after such distribution; such execution to be issued by the clerk of the court upon demand, at the return of the sheriff or other officer making the sale, showing such balance due.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-513. Joinder of actions -- Filing fees as costs -- Attorney's fees. Any number of persons claiming liens against the same property may join in the same action, and when separate actions are

commenced the court may consolidate them. The court shall also allow as part of the costs the moneys paid for filing and recording the claim, and reasonable attorney's fees.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-514. Exemption of materials from execution. Whenever materials shall have been furnished for use in the construction, alteration or repair of any buildings, or other improvement, such materials shall not be subject to attachment, execution or other legal process, to enforce any debt due by the purchaser of such materials, except a debt due for the purchase money thereof, so long as, in good faith, the same are being applied to the construction, alteration or repair of such building, mining claim or other improvement.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-515. Action to recover debt. Nothing contained in this chapter shall be construed to impair or affect the right of any person to whom any debt may be due for work done, equipment, materials or fixtures rented or leased or materials furnished, to maintain a personal action to recover such debt against the person liable therefor.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-516. Rules of practice and appeals. Except as otherwise provided in this chapter, the provisions of this code relating to civil actions, new trials and appeals are applicable to, and constitute the rules of practice in, the proceedings mentioned in this chapter: provided, that the district courts shall have jurisdiction of all actions brought under this chapter.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-517. Lien for workmen's compensation security. The term "labor" as used in this title, shall include the cost of workmen's compensation and occupational disease compensation security required by the provisions of [sections 72-301 -- 72-304, Idaho Code,] and amendments thereto, payment for which security has not been made.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-518. Release of lien on real property by posting surety bond -- Manner. A mechanic's lien of record upon real property may be released upon the posting of a surety bond in the manner provided in sections 45-519 through 45-524, Idaho Code.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-519. Release of lien on real property by posting surety bond -- Form of bond. The debtor of the lien claimant or a party in interest in the premises subject to the lien must obtain a surety bond executed by the debtor of the lien claimant or a party in interest in the premises subject to the lien, as principal, and executed by a corporation authorized to transact surety business in this state, as surety, in substantially the following form:

(Title of court and cause, if action has been commenced)

WHEREAS, ... (name of owner, contractor, or other person disputing the lien) desires to give a bond for releasing the following described real property from that certain claim of mechanic's lien in the sum of $ ....., recorded ....., ..., in the office of the recorder in ..... (name of county where the real property is situated):

(legal description)

NOW, THEREFORE, the undersigned principal and surety do hereby obligate themselves to ....., (name of claimant) the claimant named in the mechanic's lien, under the conditions prescribed by sections 45-518 through 45-524, Idaho Code, inclusive, in the sum of $ ..... (1-1/2 x claim), from which sum they will pay the claimant such amount as a court of competent jurisdiction may adjudge to have been secured by his lien, with interest, costs and attorney's fees.

IN WITNESS WHEREOF, the principal and surety have executed this bond at ....., Idaho, on the ..... day of ....., ...

.....
(Signature of Principal)
(SURETY CORPORATION)
BY .....
(Its Attorney in Fact)

State of Idaho)
) ss.
County of .....)

On ....., ..., before me, the undersigned, a notary public of this county and state, personally appeared ..... who acknowledged that he executed the foregoing instrument as principal for the purposes therein mentioned and also personally appeared ..... known (or satisfactorily proved) to me to be the attorney in fact of the corporation that executed the foregoing instrument and known to me to be the person who executed that instrument on behalf of the corporation therein named, and he acknowledged to me that that corporation executed the foregoing instrument.

.....
(Notary Public in and for the
County and State)

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-520. Release of lien on real property by posting surety bond -- Petition for release -- Service of copy of petition.

(1) A petition for the release of a mechanic's lien by posting a surety bond must be filed in the district court of the county wherein the property is located and shall set forth:

(a) The title of the cause, thus: "In the matter of the petition of ..... (name of petitioner) for release of mechanic's lien of ..... (name of mechanic's lien claimant) upon posting surety bond."

(b) An allegation of the purchase of and payment of the premium for the bond, and the dates of purchase and payment.

(c) An allegation incorporating by reference a true copy of the bond, which copy must be attached to the petition.

(d) The name or names of the owner or reputed owners of the land subject to the lien.

(e) A description of the real property subject to the lien, and the instrument number of the lien as given by the recorder's office.

(f) A prayer for an order releasing the lien.

(2) The petitioner shall obtain an order from the district court setting forth the time and date of the hearing on the petition, which time and date must be at least five (5) days after the date of the order and not more than ten (10) days after the date of the order.

(3) A copy of the petition and a copy of the order must be served on the lien claimant at least two (2) days before the date set for the hearing and served in the manner provided by law for service of summons.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-521. Release of lien on real property by posting surety bond -- Hearing on petition -- Contents and effect of order releasing lien.

(1) Upon the hearing, the court shall enter its order releasing the mechanic's lien upon the petitioner's filing in open court the original bond, and introducing into evidence a receipt for payment of the premium.

(2) The entry of the order by the court must refer to the property which is the subject of the lien and the lien itself, by instrument number, and must recite that the lien is released of record for all purposes to the same extent as if released of record by the lienor.

(3) Upon entry of the order, the lien is released of record in its entirety and for all purposes and the real property, the subject of the lien, is released from the encumbrances of the lien.

(4) There is no appeal from the entry of an order pursuant to the provisions of this section and upon entry the order is final for all purposes.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-522. Release of lien on real property by posting surety bond -- Action against debtor and surety -- Preferential settings.

(1) The lien claimant is entitled to bring an action against the lien claimant's debtor and to join therein the surety on the bond. The rights of the lien claimant include and the court may award to him in that action:

(a) The amount found due to the lien claimant by the court;

(b) The cost of preparing and filing the lien claim, including attorney's fees, if any;
(c) The costs of the proceedings;
(d) Attorney's fees for representation of the lien claimant in the proceedings; and
(e) Interest at the rate of seven percent (7%) per annum on the amount found due to the lien claimant and from the date found by the court that the sum was due and payable.

(2) Proceedings under subsection (1) of this section are entitled to priority of hearing second only to criminal hearings. The plaintiff in the action may serve upon the adverse party a "demand for thirty (30) day setting" in the proper form, and file the demand with the clerk of the court. Upon filing, the clerk of the court shall, before Friday next, vacate a case or cases as necessary and set the lien claimant's case for hearing, on a day or days certain, to be heard within thirty (30) days of the filing of the "demand for thirty (30) day setting." Only one (1) such preferential setting need be given by the court, unless the hearing date is vacated without stipulation of counsel for the plaintiff in writing. If the hearing date is vacated without that stipulation, upon service and filing of a "demand for thirty (30) day setting," a new preferential setting must be given.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-523. Release of lien on real property by posting surety bond -- Motion to enforce liability of surety.

(1) By entering into a bond given pursuant to section 45-519, Idaho Code, the surety submits himself to the jurisdiction of the court in which the bond is filed in the proceeding for release of the lien, and the surety irrevocably appoints the clerk of that court as its agent upon whom any papers affecting its liability on the bond may be served. Its liability may be enforced on motion without the necessity of an independent action. The motion and such notice of motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the surety if his address is known.

(2) The motion described in subsection (1) of this section must not be instituted until the lapse of thirty (30) days following the giving of notice of entry of judgment in the action against the lien claimant's debtor, if no notice of appeal from the judgment is filed, nor may the motion be instituted until the lapse of thirty (30) days following the filing of the remittitur from the court of appeals or the supreme court, if an appeal has been taken from the judgment.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-524. Release of lien on real property by posting surety bond -- Exception to sufficiency of surety.

(1) The lien claimant may, within two (2) days after the service of a copy of the petition for release of the lien with a copy of the bond attached thereto pursuant to section 45-520, Idaho Code, file with the clerk of the court in the action a notice excepting to the sufficiency of the surety on the bond, and shall, at the same time and together with that notice, file an affidavit setting forth the grounds and basis of the exceptions to the surety, and shall serve a copy of the notice and a copy of the affidavit upon the attorney or the petitioner on the same date as the date of filing of the notice and affidavit. A hearing must be had upon the justification of the surety at the same time as that set for the hearing on the petition for an order to release the lien.

(2) If the lien claimant fails to file and serve the notice and affidavit within two (2) days after the service of the petition for release of the lien, he shall be deemed to have waived all objection to the justification and sufficiency of the surety.

TITLE 45
LIENS, MORTGAGES AND PLEDGES
CHAPTER 5
LIENS OF MECHANICS AND MATERIALMEN

45-525. General contractors -- Residential property -- Disclosures.

(1) Legislative intent. This section is intended to protect owners and purchasers of residential real property by requiring that general contractors provide adequate disclosure of potential liens.

(2) General contractor information. Prior to entering into any contract in an amount exceeding two thousand dollars ($2,000) with a homeowner or residential real property purchaser to construct, alter or repair any improvements on residential real property, or with a residential real property purchaser for the purchase and sale of newly constructed property, the general contractor shall provide to the homeowner a disclosure statement setting forth the information specified in this subsection. The statement shall contain an acknowledgment of receipt to be executed by the homeowner or residential real property purchaser. The general contractor shall retain proof of receipt and shall provide a copy to the homeowner or residential real property purchaser. The disclosure shall include the following:

(a) The homeowner or residential real property purchaser shall have the right at the reasonable expense of the homeowner or residential real property purchaser to require that the general contractor obtain lien waivers from any subcontractors providing services or materials to the general contractor;

(b) The homeowner or residential real property purchaser shall have the right to receive from the general contractor proof that the general contractor has a general liability insurance policy including completed operations in effect and proof that the general contractor has worker's compensation insurance for his employees as required by Idaho law;

(c) The homeowner or residential real property purchaser shall be informed of the opportunity to purchase an extended policy of title insurance covering certain unfiled or unrecorded liens; and

(d) The homeowner or residential real property purchaser shall have the right to require, at the homeowner's or residential real property purchaser's expense, a surety bond in an amount up to the value of the construction project.

(3) Subcontractor, materialmen and rental equipment information.

(a) A general contractor shall provide to a prospective residential real property purchaser or homeowner a written disclosure statement, which shall be signed by the general contractor listing the business names, addresses and telephone numbers of all subcontractors, materialmen and rental equipment providers having a direct contractual relationship with the general contractor and who have supplied materials or performed work on the residential property of a value in excess of five hundred dollars ($500). A general contractor is not required under this subsection to disclose subcontractors, materialmen or rental equipment providers not directly hired by or directly working for the general contractor. Such information shall be provided within a reasonable time prior to:

(i) The closing on any purchase and sales agreement with a prospective residential real property purchaser; or

(ii) The final payment to the general contractor by a homeowner or residential real property purchaser for construction, alteration, or repair of any improvement of residential real property.

(b) All subcontractors, materialmen and rental equipment providers listed in the disclosure statement are authorized to disclose balances owed to the prospective real property purchasers or homeowners and to the agents of such purchasers or homeowners.

(c) The general contractor shall not be liable for any error, inaccuracy or omission of any information delivered pursuant to this section if the error, inaccuracy or omission was not within the personal knowledge of the general contractor.

(4) Failure to disclose. Failure to provide complete disclosures as required by this section to the homeowner or prospective residential real property purchaser shall constitute an unlawful and deceptive act or practice in trade or commerce under the provisions of the Idaho consumer protection act, chapter 6, title 48, Idaho Code.

(5) Definitions. For purposes of this section:

(a) "General contractor" means a person who enters into an agreement in excess of two thousand dollars ($2,000) with:

(i) A homeowner or prospective residential real property purchaser for the construction, alteration or repair of residential real property; or

(ii) A prospective residential real property purchaser for the purchase and sale of newly constructed property.

The term "general contractor" does not include subcontractors, materialmen or rental equipment providers who do not have a direct contractual relationship with the homeowner or residential real property purchaser.

(b) "Residential real property" shall include owner and nonowner occupied real property consisting of not less than one (1) nor more than four (4) dwelling units.

(6) This section shall not apply to instances in which a homeowner or the agent of the homeowner initiates the contact with the general contractor for purposes of providing repairs necessary to meet a bona fide emergency of the homeowner or to make necessary repairs to an electrical, plumbing or water system of the homeowner.

As a precautionary effort a contractor should require lien waivers at each payment and/or require joint checks with the contractor and material supplier.

APPENDIX

Employers Affected by Standard Labor Laws		
Law	**Number of employees**	**Special Provisions**
Age Discrimination Act (ADEA)	20 or more	
Americans with Disabilities Act (ADA)	15 or more	
Civil Rights Act of 1964	all	
Civil Rights Act of 1991	all	
Consumer Credit Protection Act (CCPA)	all	
Contract Work Hours and Safety Standards Act (CWHSSA)		Federal contracts over $100,000
Copeland "Anti-Kickback" Act		Federal contractors or subcontractors
Davis-Bacon and Related Acts (DBRA)		Federal contractors or subcontractors w/contracts in excess of $2,000
Employee Polygraph Protection Act (EPPA)	all	
Employee Retirement Income Security Act (ERISA)		Only employers that establish pension plans
Equal Pay Act of 1963 (EPA)	all	
Executive Order 11246		Federal contractors or subcontractors w/contracts that exceed $10,000
Fair Labor Standards Act (FLSA)	all	Check exemptions with the Department of Labor
Family and Medical Leave Act (FMLA)	50 or more	
Genetic Information Nondiscrimination Act of 2008 (GINA)	all	
Immigration and Nationality Act (INA)	all	
Immigration Reform and Control Act of 1986 (IRCA)	all	
McNamara-O'Hara Service Contract Act (SCA)		Federal contractors or subcontractors w/contracts in excess of $2,500
Pregnancy Discrimination Act	all	
Rehabilitation Act of 1973, Section 503		Federal contractors or subcontractors w/contracts that exceed $10,000
Uniformed Services Employment and Reemployment Rights Act (USERRA)	all	
The Walsh-Healey Public Contracts Act (PCA)		Federal contractors or subcontractors w/contracts that exceed $10,000
New Hire Reporting	all	All Idaho employers and businesses
Wage Payment Law	all	Idaho Code

Income Statement
For the Year Ended [Mmmm Dd, 200X]

Revenue:		
Gross Sales		$0.00
Less: Sales Returns and Allowances		$0.00
Net Sales		$0.00
Cost of Goods Sold:		
Beginning Inventory	$0.00	
Add: Purchases	$0.00	
Freight-in	$0.00	
Direct Labor	$0.00	
Indirect Expenses	$0.00	
	$0.00	
Less: Ending Inventory	$0.00	
Cost of Goods Sold		$0.00
Gross Profit (Loss)		$0.00
Expenses:		
Advertising	$0.00	
Amortization	$0.00	
Bad Debts	$0.00	
Bank Charges	$0.00	
Charitable Contributions	$0.00	
Commissions	$0.00	
Contract Labor	$0.00	
Credit Card Fees	$0.00	
Delivery Expenses	$0.00	
Depreciation	$0.00	
Dues and Subscriptions	$0.00	
Insurance	$0.00	
Interest	$0.00	
Maintenance	$0.00	
Miscellaneous	$0.00	
Office Expenses	$0.00	
Operating Supplies	$0.00	
Payroll Taxes	$0.00	
Permits and Licenses	$0.00	
Postage	$0.00	
Professional Fees	$0.00	
Property Taxes	$0.00	
Rent	$0.00	
Repairs	$0.00	
Telephone	$0.00	
Travel	$0.00	
Utilities	$0.00	
Vehicle Expenses	$0.00	
Wages	$0.00	
Total Expenses		$0.00
Net Operating Income		$0.00
Other Income:		
Gain (Loss) on Sale of Assets	$0.00	
Interest Income	$0.00	
Total Other Income		$0.00
Net Income (Loss)		$0.00

Balance Sheet
[Mmmm Dd, 200X]

Assets

Current Assets:			
Cash		$0	
Accounts Receivable	$0		
Less: Reserve for Bad Debts	0	0	
Merchandise Inventory		0	
Prepaid Expenses		0	
Notes Receivable		0	
Total Current Assets			$0
Fixed Assets:			
Vehicles	0		
Less: Accumulated Depreciation	0	0	
Furniture and Fixtures	0		
Less: Accumulated Depreciation	0	0	
Equipment	0		
Less: Accumulated Depreciation	0	0	
Buildings	0		
Less: Accumulated Depreciation	0	0	
Land		0	
Total Fixed Assets			0
Other Assets:			
Goodwill		0	
Total Other Assets			0
Total Assets			$0

Liabilities and Capital

Current Liabilities:		
Accounts Payable	$0	
Sales Taxes Payable	0	
Payroll Taxes Payable	0	
Accrued Wages Payable	0	
Unearned Revenues	0	
Short-Term Notes Payable	0	
Short Term Bank Loan Payable	0	
Total Current Liabilities		$0
Long-Term Liabilities:		
Long-Term Notes Payable	0	
Mortgage Payable	0	
Total Long-Term Liabilities		0
Total Liabilities		0
Capital:		
Owner's Equity	0	
Net Profit	0	
Total Capital		0
Total Liabilities and Capital		$0