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CH. 55 PREVAILING WAGES IN PUBLIC CONTRACTS

**CHAPTER 55**  
**PREVAILING WAGES IN PUBLIC CONTRACTS**

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**§ 55101. Rate of Wages for Laborers & Mechanics.**

(a) The advertised specifications for every contract to which the government of Guam is a party, for construction, alteration, or repair, including painting and decorating, of public buildings or public works of the government of Guam and which required or involves the employment of mechanics or laborers, or both, shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics, which shall be based upon the wages that will be determined by the Director of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract on Guam; and every contract based on these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rate of wages required by the contract to be

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paid laborers and mechanics on the work and the rate of wages received by such laborers and mechanics and not refunded to the contractor, subcontractor, or their agents.

(b) As used in this Chapter, the term *wages, scale of wages, wage rates, minimum wages, and prevailing wages* shall include:

- (1) the basic hourly rate of pay; and
- (2) the amount of ---

(A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected, for medical or hospital care; pensions on retirement or death; compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; for unemployment benefits; life insurance; disability and sickness insurance; or accident insurance; for vacation and holiday pay; for defraying costs of apprenticeship or other similar programs; or for other bona fide fringe benefits; but only where the contractor or subcontractor is not required by Federal of Guam law to provide any such benefits:

*Provided*, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Director of Labor, insofar as this Chapter, and other acts incorporating this Chapter by reference are concerned, may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2)(A), or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in paragraph (2)(B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

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In determining the overtime pay to which the laborer or mechanic is entitled under any federal or territorial law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under this Chapter, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the type described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is greater.

**SOURCE:** GC § 10300 added by P.L. 10-143.

**§ 55102. Termination of Work on Failure to Pay Agreed Wages: Completion by Govt.**

Every contract within the scope of this Chapter shall contain the further provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the government of Guam may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages, and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the government of Guam for any excess costs occasioned the government of Guam thereby.

**SOURCE:** GC § 10301 added by P.L. 10-143.

**§ 55103. Payment of Wages by Treasurer of Guam: Listing of Contractors in Violation.**

(a) The Treasurer of Guam is authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to this Chapter, and the Treasurer is further authorized and is directed to distribute a list to all departments of the government of Guam giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors.

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tors. No contract shall be awarded to the persons or firms appearing on this list, or to any firm, corporation, partnership, or association in which such persons or firms have an interest, until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

(b) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics, with respect to whom there has been a failure to pay the wages required pursuant to this Chapter, such laborers and mechanics shall have the right of action or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor and materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

**SOURCE:** GC § 10302 added by P.L. 10-143.

**§ 55104. Effect on Other Laws.**

This Chapter shall not be construed to supersede or impair any authority otherwise granted by law to provide for the establishment of specific wage rates.

**SOURCE:** GC § 10303 added by P.L. 10-143.

**§ 55105. Effective Date.**

This Chapter shall take effect 30 days after March 31, 1970, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding on March 31, 1970.

**SOURCE:** GC § 10304 added by P.L. 10-143.

**§ 55106. Suspension During Emergency.**

In the event of a national emergency, the Governor is authorized to suspend the provisions of this Chapter.

**SOURCE:** GC § 10305 added by P.L. 10-143.

**§ 55107. Application of Chapter Regardless of Means by Which Contract was Entered Into.**

The fact that any contract authorized by any Act is entered into without regard to this Chapter, or upon a cost-plus-fixed-fee basis or

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otherwise without advertising for proposals, shall not be construed to render inapplicable the provisions of this Chapter, if such would otherwise be applicable to such contract.

**SOURCE:** GC § 10306 added by P.L. 10-143.

**§ 55108. Regulations Governing Contractors & Subcontractors.**

The Director of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion, or repair of public buildings, public works, or buildings or works financed in whole or in part by loans or grants from the government of Guam, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week.

**SOURCE:** GC § 10307 added by P.L. 10-143.

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