

52.222-60 PAYCHECK TRANSPARENCY (EXECUTIVE ORDER 13673) (OCT 2016)

(a) *Wage statement.* In each pay period, the Contractor shall provide a wage statement document (e.g. a pay stub) to all individuals performing work under the contract subject to the wage records requirements of any of the following statutes:

- (1) The Fair Labor Standards Act.
- (2) [40 U.S.C. chapter 31](#), subchapter IV, Wage Rate Requirements (Construction) (formerly known as the Davis-Bacon Act).
- (3) [41 U.S.C. chapter 67](#), Service Contract Labor Standards (formerly known as the Service Contract Act of 1965).

(b) *Content of wage statement.*

- (1) The wage statement shall be issued every pay period and contain —
 - (i) The total number of hours worked in the pay period;
 - (ii) The number of those hours that were overtime hours;
 - (iii) The rate of pay (e.g., hourly rate, piece rate);
 - (iv) The gross pay; and
 - (v) Any additions made to or deductions taken from gross pay. These shall be itemized. The itemization shall identify and list each one separately, as well as the specific amount added or deducted for each.
- (2) If the wage statement is not provided weekly and is instead provided bi-weekly or semi-monthly (because the pay period is bi-weekly or semi-monthly), the hours worked and overtime hours contained in the wage statement shall be broken down to correspond to the period (which will almost always be weekly) for which overtime is calculated and paid.
- (3) The wage statement provided to an individual exempt from the overtime compensation requirements of the Fair Labor Standards Act (FLSA) need not include a record of hours worked, if the Contractor informs the individual in writing of his or her overtime exempt status. The notice may not indicate or suggest that DOL or the courts agree with the Contractor's determination that the individual is exempt. The notice must be given either before the individual begins work on the contract, or in the first wage statement under the contract. Notice given before the work begins can be a stand-alone document, or can be in an offer letter, employment contract, or position description. If during performance of the contract, the Contractor determines that the individual's status has changed from non-exempt to exempt from overtime, it must provide the notice to the individual before providing a wage statement without hours worked information or in the first wage statement after the change.

(c) *Substantially similar laws.* A Contractor satisfies this wage statement requirement by complying with the wage statement requirement of any State or locality (in which the Contractor has employees) that has been determined by the United States Secretary of Labor to be substantially similar to the wage statement requirement in this clause. The determination of substantially similar wage payment states may be found at www.dol.gov/fairpayandsafeworkplaces.

(d) *Independent contractor.*

- (1) If the Contractor is treating an individual performing work under the contract as an independent contractor (e.g., an individual who is in business for him or herself or is self-employed) and not as an employee, the Contractor shall provide a written document to the

individual informing the individual of this status. The document may not indicate or suggest that the enforcement agencies or the courts agree with the Contractor's determination that the worker is an independent contractor. The Contractor shall provide the document to the individual either at the time an independent contractor relationship is established with the individual or prior to the time the individual begins to perform work on the contract. The document must be provided for this contract, even if the worker was notified of independent contractor status on other contracts. The document must be separate from any independent contractor agreement between the Contractor and the individual. If the Contractor determines that a worker's status while performing work on the contract changes from employee to independent contractor, then the Contractor shall provide the worker with notice of independent contractor status before the worker performs any work under the contract as an independent contractor.

(2) The fact that the Contractor does not make social security, Medicare, or income tax withholding deductions from the individual's pay and that an individual receives at year end an IRS Form 1099-Misc is not evidence that the Contractor has correctly classified the individual as an independent contractor under the labor laws.

(e) *Notices.*

(1) Language. Where a significant portion of the workforce is not fluent in English, the Contractor shall provide the wage statement required in paragraph (a) of this clause, the overtime exempt status notice described in paragraph (b)(3) of this clause, and the independent contractor notification required in paragraph (d) of this clause in English and the language(s) with which the significant portion(s) of the workforce is fluent.

(2) Electronic notice. If the Contractor regularly provides documents to its workers by electronic means, the Contractor may provide to workers electronically the written documents and notices required by this clause. Workers must be able to access the document through a computer, device, system or network provided or made available by the Contractor.

(f) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts that exceed \$500,000, at all tiers, for other than commercially available off-the-shelf items.