

EXHIBIT 6-L

LABOR STANDARDS DEFINITIONS

Apprentice - (1) a person employed and individually registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training administration, Bureau of Apprenticeship and Training or with a State apprenticeship agency recognized by that Bureau; or (2) a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in a program but who has been certified by the Bureau.

Basic Rate - For overtime pay purposes the basic rate is the greater of: (1) the contract minimum rate; (2) the minimum rate under the Fair Labor Standards Act; or (3) the rate actually being paid.

Building or Work - These terms generally include construction activity as distinguished from manufacturing, furnishing of materials or servicing and maintenance work. The terms include, without limitation, buildings, structures and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, scaffolding, drilling, blasting, excavating, clearing and landscaping.

CDBG - Community Development Block Grant Program, as administered by the Montana Department of Commerce.

Contract - The term "contract" means any prime contract which is subject wholly or in part to the labor standards provision of any of the acts listed in section 5.1, 29 CFR, and any subcontract of any tier thereunder, let under the prime contract. A state or local government is not regarded as a contractor under statutes providing loans, grants or other federal assistance in situations where construction is performed by its own employees. However, under statutes requiring payment of prevailing wages to all laborers and mechanics employed on the assisted project, such as the U.S. Housing and Community Development Act of 1974, State and local recipients of federal-aid must pay these employees according to Davis-Bacon labor standards.

Contractor - Any person, corporation, partnership or unincorporated association that holds a federally assisted construction contract or subcontract regardless of tier.

Copeland "Anti-Kickback" Act - The Copeland "Anti-Kickback" Act makes it a criminal offense for any person to make unauthorized deductions or to exact rebates from the wages paid to any person employed by a contractor or subcontractor engaged in the construction, prosecution, completion or repair of any public work or work financed in full or in part by loans or grants from a federal agency. The Secretary of Labor is authorized to promulgate regulations with respect to this act. Except as is provided in the regulations issued by the Secretary of Labor, no deductions of any kind are authorized from the wages of employees.

DOC - Montana Department of Commerce.

Davis-Bacon Act - The Davis-Bacon Act provides, in general, that contracts in excess of \$2,000 to which the United States is a party, for the construction, alteration and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics, shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions and termination of the contract for failure to pay the required wages. The Act contains provisions for debarment by the Comptroller general of the United States of contractors who are found to have disregarded their obligations to employees and subcontractors and provides for the direct payment to employees of wages due by the Comptroller General. If funds withheld from the contractor are insufficient for full reimbursement of the amounts due laborers or mechanics, the Act creates a right of action and/or intervention by laborers and mechanics against the contractor and his sureties, unless otherwise specified.

Days - Calendar days.

Deduction - A deduction is any sum of money which the contractor, or someone else in the chain of payment responsibility, withholds from the wages due an employee.

Discrimination - A distinction in treatment based on race, color, religion, handicap, marital status, age, sex or national origin.

Equal Employment Opportunity - The absence of partiality or distinction in employment treatment, so that the rights of all persons to work and advance on the basis of merit, ability and potential is maintained.

Good Faith Effort - Affirmative action measures designed to implement the established objectives of an Affirmative Action Plan.

Immediate Labor Area - The immediate labor area describes the geographic area from which employees and/or applicants could reasonably commute to the project site. The immediate labor area should also be defined so as to include a reasonable recruiting area.

Laborer or Mechanic - The term "laborer" or "mechanic" includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term "laborer" or "mechanic" includes apprentices, trainees, helpers and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive or clerical, rather than manual. Persons employed in a bona fide executive, administrative or professional capacity as defined in Part 541 of this title (CFR 29, Subtitle A) are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a work week to mechanic or laborer duties, and who do not meet the criteria of Part 541, are laborers and mechanics for the time so spent.

LSO - Grantee's designated "Labor Standards Officer".

Materials Supplier - A vendor engaged in sales to the public from an established place of business or source of supply.

MDOC - Montana Department of Commerce

Nonhauling Equipment Owner-Operators - Owner-operators of nonhauling equipment (in general, equipment other than trucks) are considered to be employees, not subcontractors, and are covered by wage rate decisions.

Payrolls and Basic Records - Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter of all laborers and mechanics working at the site of the work (or under the United States Housing act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB control numbers 1215-0140 and 1215-0017.)

Standards Violation Notice - A written notification to a contractor based on the determination of the Labor Standards Officer (or in appropriate cases by higher level authority) to be in noncompliance with the labor standards requirements. The notice informs the contractor of the specific basis for the determination and provides the opportunity, within 30 days from receipt, to present an explanation why sanctions should not be imposed.

Site of Work - (1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in paragraph (2) of this definition, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site". (2) Except as provided in paragraph (3) of this definition, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them. (3) Not included in the "site of the work" are permanent home offices, branch plant establishments, fabrication plants and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular federal or federally assisted contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work," even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

Subcontractor - An individual or organization under contract with the prime contractor or another subcontractor to perform a portion of the work.

Supplemental Payroll - An additional payroll used to correct a deficiency or omission on a certified payroll.

Suppliers - Contracts or subcontracts for furnishing supplies and equipment, including installation where the installation requires only an incidental amount of work are not covered by wage rate decisions.

Trainee - (Programs of the United States Department of Labor) means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, as meeting its standards for on-the-job training programs and which has been so certified by that Bureau.

Truck Drivers Owner-Operators - Truck owner-operators are not subject to the wage rates prescribed by the Department of Labor. Such owner-operators shall be listed on payrolls with the notation "owner-operator" after each name. Neither hours worked nor wages paid need be shown (Department of Labor All Agencies Memorandum #119, October 8, 1974).

US DOL (or DOL) - United States Department of Labor.

US DHUD (or HUD) - United States Department of Housing and Urban Development.

Wage Determination - The term "wage determination" includes the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The application of the wage determination shall be in accordance with the provisions of the Davis-Bacon Act.

Wages - The term "wages" means the basic hourly rate of pay, any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan or program, and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan of program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other federal, state or local law.

Withholding - The federal agency or the loan or grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or

advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee or subrecipient may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

Zone rate pay or zone hourly rate is an amount that is to be added to the base hourly rate when calculating pay, including both regular pay and overtime pay.

- The Denver office of the U.S. Department of Housing and Urban Development has confirmed that these zone rate requirements apply to the Montana State CDBG Program.
- The published hourly wage (that is, the **base hourly rate**) combined with the zone hourly pay amount (that is, the zone hourly rate that is listed in the federal wage rate determination that applies to the project) becomes an employee's base rate (on which both regular pay and overtime pay are based).
- Zone pay is not travel pay. It is additional hourly pay related to proximity to services.
- "Zone hourly rate" is the terminology used in the federal Davis-Bacon wage rate determination documents for Montana, which can be found at the following website: <http://origin.www.gpo.gov/davisbacon/mt.html>
- Zone rate pay is not like fringe pay, since zone rate pay is properly described as a "zone hourly rate" and, as stated above, it is an amount that is to be added to the base hourly rate when calculating pay, including when calculating both regular pay and overtime pay. See Chapter 6, page 6-11.