

Penalties

For a first violation of the Wyoming Preference Act, the penalties can result in a citation of \$1,000.00 per non-resident worker, per day up to 10% of the contract price.

A second violation can result in debarment from bidding on public works projects for 1 year.

Background Information on the Act

The Wyoming Preference Act seeks to keep public monies in the state by giving Wyoming resident contractors a 5% bid preference and by requiring all jobs on public works projects to be offered to Wyoming residents first.

The act helps Wyoming residents gain employment and helps to keep Wyoming money circulating within the state.

Projects Exempt from the Act

Certain federally funded projects may be exempt from the provisions of the Preference Act. Contract documents would expressly state the exemption. Please contact the Business Consultant Unit to verify exemption.

Definition of “Independent Contractor”

W.S. 27-3-104 (b) for Unemployment Insurance and W.S. 27-14-102(a)(xxiii) for Workers Compensation state.

An individual who performs service for wages is an employee unless it is shown that the individual:

1. Is free from control or direction over the details of the performance of services by contract and by fact;

2. Represents his services to the public as a self-employed individual or an independent contractor; and
3. May substitute another individual to perform his services.

Unless all three components of the law are met, the individuals are in fact in employment.

Residency Certification Questions

For questions regarding Residency Certification, please contact the Labor Standards office at (307) 777-7261 or visit wyomingworkforce.org/businesses/labor/info/.

Resident Labor Questions

Please contact the Business Consultant Unit for any questions or concerns regarding the requirement for resident labor on public works jobs at (307) 777-7261.

Workforce Center Locations

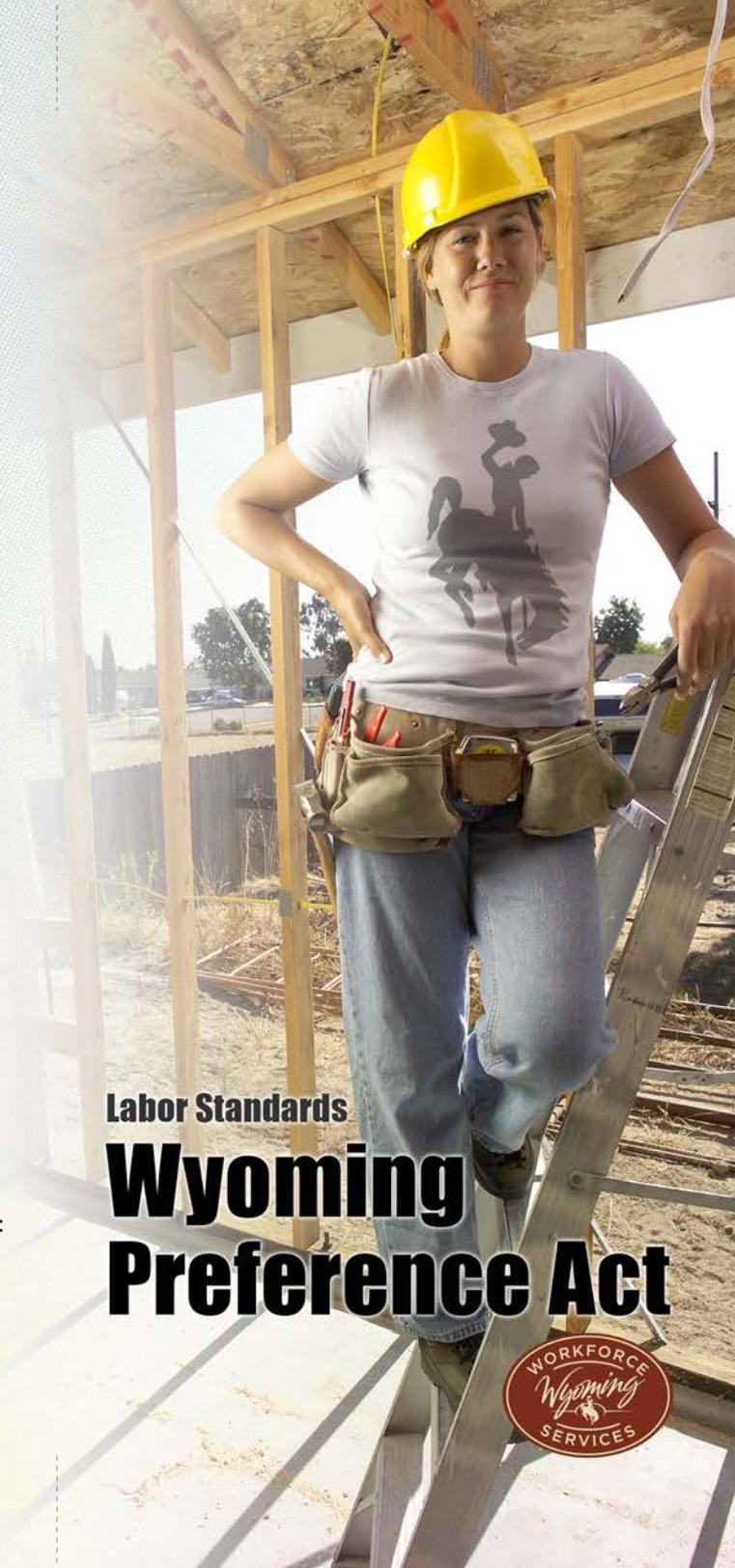
To locate the nearest workforce center to get your Preference Act job posted, please refer to wyomingworkforce.org/contact/employment.

Wyoming State Statutes

The Wyoming State Statutes can be viewed online at: wyoleg.gov/StateStatutes/StatutesConstitution.

Department of Workforce Services Rules

The rules for DWS can be viewed at rules.wyo.gov.



Labor Standards

Wyoming Preference Act



Wyoming Resident Contractor Preference

Wyoming Statute 16-6-102 allows for a 5% bidding preference for Wyoming resident contractors over non-resident contractors on public works projects.

The Labor Standards Division is authorized to issue certificates to companies meeting the qualifications of a resident company.

It is recommended that companies looking to apply for a residency certificate start the process early, as the verification process can sometimes take some time to complete.

Limitation on Subcontracting

Wyoming Statute 16-6-103 states " A successful resident bidder shall not subcontract more than thirty percent (30%) of the work covered by his contract to nonresident contractors.

This means that when a contractor wins a bid while using the 5% bid preference, 70% of the value of the contract needs to be performed by Wyoming resident subcontractors.

Failure to comply with this requirement can result in the revocation of the residency certificate.

Wyoming Resident Contractor List

The current list of Wyoming resident contractors can be found at wyomingworkforce.org/businesses/labor.

Preference for State Laborers

Wyoming Statute 16-6-203 indicates that every individual performing physical work on a public works project within the state should be a Wyoming resident.

The only exception for this is for companies who have offered positions to Wyoming residents through the Wyoming Workforce Centers and received certifications to bring non-resident workers onto the project.

Certificates are specific to each non-resident worker and these are possible to move between projects if the workforce center is advised of the various projects at the time of the original posting.

Please contact the local workforce center at least 10-days prior to the work beginning. The workforce center will help you to find qualified Wyoming resident employees or issue certificates if none are available.

Certifications can be revoked if it is determined that a company did not seek the certifications in a reasonable time frame, did not hire qualified Wyoming residents, held unrealistic or unnecessary qualifications, or as determined by the Business Consultant Unit.

Independent contractors, non-working supervisors, engineers, designers, project owners , and others who are not performing physical work on the project are not covered by this act.

Emergency Projects

In the event an unexpected situation that threatens the health, welfare or safety of the public, where non-resident workers may be needed to address the situation, the contractor should reach out to the Workforce Center and let them know about the

situation. The Department will respond as quickly as possible and always within no more than 3-days to the request and if deemed to qualify as an emergency may issue certificates to cover non-residents.

Wyoming Residency

According to W.S. 16-6-202 (ii) a resident is an individual who is authorized to work in the United States and who has resided in Wyoming for at least ninety (90) days.

Contractors are responsible for verifying and maintaining proof of current and past employees on public works projects. Residency status is determined by Labor Standards. Some example proofs of residency include:

- Wyoming Driver's License
- Utility bills, rent receipts, employment documents.
- Resident hunting or fishing licenses
- Military form DD214, which indicates Wyoming as the home of record.

Other documentation may be acceptable, but all proof of residency must show proof of the employee residing in Wyoming for at least ninety (90) days prior to their employment on the project.

Investigations

Investigations can include in person site visits, phone calls or written requests by the Business Consultant Unit to verify residency of the company or laborers on a project.

Please respond timely to the Departments request for information.