



How Construction Companies Can Manage Labor Law Compliance

Introduction

Your workforce is the cornerstone of your business. After all, your ability to deliver on customer expectations and complete projects on time depends on the productivity of your workforce and the quality of its work.

Whether you construct single-family homes, residential or commercial buildings, highways or roads or anything in between, you know how important it is to keep your workforce on track and not get slowed down by compliance snags that increase costs and limit productivity.

These days, there is no shortage of labor laws you need to consider when [managing your construction workforce](#). Unfortunately, non-compliance can spell disaster for your organization's bottom line and reputation. Although you need to take steps to understand the labor laws that impact your workforce, there are workforce management tools that can automate processes for [time and attendance](#), [scheduling](#), [absence management](#) and more to ensure compliance.

With a combination of knowledge about your obligations and tools for maintaining compliance, you can ensure every worker across all of your construction sites has a fair and lawful working experience. Instead of being a headache or source of regulatory fines, labor law compliance can be a manageable reality for your business.



A Summary of the Key Labor Laws Affecting Your Construction Company

The Department of Labor (DOL) enforces over [180 federal laws](#), many of which apply in some form to construction companies. In addition, there are also state laws covering areas such as minimum wage, paid and unpaid leave, and rules for administering overtime.

Given the sheer number of federal and state labor statutes, you're not expected to know the intricacies of every single one. However, by understanding the key requirements applicable to your construction workforce, you can put processes in place to manage potential risks and keep your workers on track to meet critical construction schedules. Here is a brief summary of the key laws you should know to effectively manage your construction workforce:

Fair Labor Standards Act (FLSA)

[The Fair Labor Standards Act](#) (FLSA) sets standards for employee working hours and pay, including the federal minimum wage and overtime eligibility. [According to the Department of Labor](#), construction companies with two or more employees and an annual gross sales volume of \$500,000 or more are subject to the FLSA. In addition, non-management construction workers [cannot be classified as exempt](#) from FLSA Section 13, which states that "executive, administrative, professional and outside sales employees" cannot be paid overtime. To comply, you need to pay non-managerial workers time and a half for all hours worked over 40 per week and keep accurate records of hours and wages.

State Wage and Hour Laws

In addition to the federal minimum wage set by the FLSA, there are state laws governing worker pay rates, overtime and leaves. For example, in New York City, California and Washington, D.C., [minimum wage rates are more than double](#) the federal minimum wage of \$7.25. Some states, such as Connecticut, allow workers to [earn sick time](#) based on the number of hours they work each week. Other states also have overtime rules that are more generous than the FLSA requirement. In [Colorado](#), for example, employees are entitled to overtime when they work 12 or more consecutive hours in a workday.

Affordable Care Act

The [Affordable Care Act](#) (ACA) provides healthcare benefits to the previously uninsured. In addition, to ensure employees are receiving affordable healthcare, the ACA also requires employers to submit an annual report to the IRS detailing the benefits offered to full-time employees. Because the IRS considers anyone working [at least 30 hours per week](#) to be full time, ACA compliance requires a method for keeping track of working hours throughout the year, including workers who have variable schedules.



Family and Medical Leave Act

Under the Family and Medical Leave Act (FMLA), companies with at least 50 employees must provide up to [12 weeks of unpaid leave](#) to employees with serious health conditions or who need to care for a new child or ill family member. Not only do you need to provide FMLA leaves to eligible employees, but you also need to track those leaves [in conjunction with employee time and attendance](#) so you have an accurate record. When you have a reliable record of all leaves, you increase the chances of avoiding payroll overpayments and underpayments.

Occupational Safety and Health Act

The safety of your workforce is essential, especially given the nature of work in construction companies. That's why you need to stay in strict compliance with the [Occupational Safety and Health Act](#), enforced by the [Occupational Safety and Health Administration](#) (OSHA). Certified OSHA safety inspectors can inspect your construction site at any time, and non-compliance may result in hefty fines and an increased risk of accidents and injuries.

Americans with Disabilities Act

[The Americans with Disabilities Act \(ADA\) was established in 1990](#) to prevent discrimination against individuals with disabilities and set standards to accommodate disabled workers. In the past year, the ADA rose in prominence because it guided [workplace COVID-19 testing and vaccination requirements](#), enforced by the Equal Employment Opportunity Commission (EEOC). For example, the ADA previously prohibited employers from dictating specific medical tests and examinations for employees, but it now permits employers to require that workers be fully vaccinated against COVID-19 before entering a work site.

Davis-Bacon and Related Acts

If your construction company performs work on any federally-funded contract of \$2,000 or more, the [Davis-Bacon and Related Acts](#) require you to pay workers the local prevailing wage rate for the given contract. Moreover, in early 2021, the U.S. Government Accountability Office (GAO) [published a report](#) assessing the enforcement of the Davis-Bacon Acts and recommending steps for greater enforcement and on-site inspections of payroll records.

Given the many laws affecting how you schedule, pay and provide time off to your employees, it's essential to have the right tools to overcome any obstacles to compliance. Although managing a dispersed construction workforce with diverse roles and schedules comes with its challenges, you can improve compliance through the use of smart technology and automated processes.





How to Address Labor Law Compliance Challenges in Your Construction Company

When you have workers performing various duties across one or more work sites, you can't be everywhere at once. But you can stay on top of worker scheduling, leave management and payroll requirements when you have the right processes and systems in place. Here are some of the common challenges associated with managing wages and hours for a construction workforce and how you can address them:

You have a hard time managing clock-ins and clock-outs for crews at different sites.

Nearly all work for a construction company is performed in the field. Workers may work at one or more sites in a given week, and some crews might even travel between multiple sites in a given day. Without an effective way of accurately recording clock-ins and clock-outs, break times and travel time between sites, you can end up inaccurately recording both regular and overtime hours, resulting in worker underpayments. This can put a damper on employee morale and result in you paying back wages and FLSA non-compliance penalties.

To stay in compliance with federal and state requirements for recording hours, you need to make it easy for workers to clock in and out at different work sites. [A mobile time clock](#)—which can be configured for break times and other parameters—provides the flexibility you need to record worker hours, no matter where they are. You can even enable geofencing and geolocation features so that workers only clock in and out at the locations where they will be working.

You need to schedule crews in the most efficient manner possible.

When your labor costs are your biggest expense, time really is money. Although you may have enough workers on-site to keep construction moving, it's hard to determine the optimal number of workers to put on a specific task. For example, if you schedule a crew of 10 workers to install a roof, you may not know if a crew of eight could have completed the work just as well. However, with [labor tracking and costing software](#), you have tools needed to measure how long workers spend on specific tasks. Not only will you be able to track productivity across work sites and ensure you're accurately billing the client, but you'll also be able to calculate the potential labor costs of future projects.

You need a more effective way to manage different time and attendance policies.

Although the bulk of your workforce may consist of full-time hourly construction workers, some may be part time. Your workforce might also have a mix of unionized and non-unionized workers, and as a result, you may be operating multiple time and attendance policies.

Your unionized workers likely have specific entitlements—such as shift differentials and double time on holidays—so you need a time and attendance system that can manage those policy requirements. This will help you avoid lawsuits, strikes and [punitive action by the National Labor Relations Board](#).

You also need to ensure you accurately track time and attendance for your full-time and part-time employees who aren't working under a collective bargaining agreement. Thankfully, a dynamic solution, such as [TCP's TimeClock Plus](#), offers flexible tools for time tracking, overtime and leave management for every combination of employees in your workforce. With features that track working hours and time off, you have the capability to take actions such as:

- Setting employee schedules and assigning shifts.
- Approving time-off requests and tracking adherence to absence policies.
- Offering overtime in accordance with collective bargaining agreements.
- Paying double time to eligible workers.

You desire consistency across time and attendance, scheduling and payroll.

When you use one system for recording time off, another for setting work schedules, and another for paying workers, you may end up with inconsistent reports or, even worse, inaccurate paychecks. Moreover, by storing workforce information in different systems, you make it much harder to know if you're meeting DOL requirements for record keeping.

A surprise DOL inspection shouldn't reveal inaccuracies in your time tracking or that your records are in disarray. By [integrating your time and attendance and scheduling software](#) with your payroll or human capital management (HCM) system, you can ensure a seamless and bi-directional flow of information around workforce hours, leaves and pay. As a result, if a crew member works 40 regular hours and five overtime hours, those will be accurately reflected in the next paycheck.



You need a better way to track work leaves.

Construction workers will occasionally be away from work for vacation, sick leave, jury duty and other reasons. In addition, because of the nature of their work and the risk of physical injury, your workers may also be out on workers' compensation leave at some point during their employment. In fact, construction work is one of the [top ten occupations](#) with the highest number of injuries and illnesses, according to the Insurance Information Institute.

To understand patterns in worker absences and how much illness and injury cost in the form of compensation leaves, you need a way to categorize and track leaves over time. A modern [absence management solution](#) allows you to view and approve time-off requests, run reports on current and historical leaves, and filter leaves according to leave type, date and other parameters. At any point in time, you can see who is out on leave, when they are expected to return, and who has upcoming time off planned.

You want to support the health and safety of your workforce.

Although many construction workers work in outdoor environments with access to fresh air, they are not immune to the effects of COVID-19. That's why it is critical to take steps to protect workers from serious illness. Just as you provide personal protective equipment for the work they perform, you can also take steps to support the health of your workforce with thorough contact tracing and symptom checking protocols.

By implementing a time clock solution with an [integrated mobile app](#), you can collect location and symptom information from individuals at each work site throughout the day. If you identify a possible health hazard at any work site, you can quickly contact trace and notify any affected individuals to avoid further exposure.

You want to identify potential areas of waste.

In an industry in which worker productivity can mean the difference between completing jobs on time and within budget or losing valuable time and money, you want to be sure there is nothing in the way of effectively completing work. Though there are some variables you can't control—such as poor weather conditions and late material deliveries—you can create an environment in which workers are effectively used and wasted costs are eliminated.

[Best-in-class time tracking and scheduling solutions](#) allow you to track and measure working hours with pinpoint accuracy. Instead of paying for non-working time, you can pay workers accurately for all time worked, even when their hourly rates may vary according to job or work site. For example, you can configure a solution such as [TCP's time and attendance software](#) to help you collect time according to shift differentials, so that all regular and overtime hours are paid at the correct rate. You can also use mobile time collection tools to enable cellphone clock-ins and clock-outs, thereby [preventing wasteful practices](#) such as buddy punching.



Conclusion

The day-to-day challenges of managing a busy construction company can sometimes feel overwhelming. The combination of high labor costs, dispersed workers across numerous sites and strict compliance requirements can make it seem insurmountable to both maintain productivity and safety and keep costs at a manageable level. However, by taking advantage of modern tools that make it easier to manage your workforce, you can achieve these goals with confidence.

Dynamic time and attendance solutions help you schedule the right combination of workers and crews for jobs, keep track of who is working and where, and identify where overtime is inching up and over your budget. Replace spreadsheets and old-fashioned time clocks with digital tools that give you full visibility into working hours, leaves and costs associated with specific jobs. To learn more about how you can optimize the operations of your construction workforce, [schedule a consultation today](#).



Want to learn more? Let's talk.

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