



# You've finished the project – have all your contractors filed their affidavits?

The Department of Labor & Industries (L&I) will no longer process any *Notice of Completion (NOC)* unless the contractor and each subcontractor for the project has an approved *Affidavit of Wages Paid* listed on the NOC.

## Public works projects and retainage

By law, public agencies that hire contractors to work on most public works projects must withhold 5% of the amount to be paid on the contract. It's called "retainage." Under state law it is the responsibility of the public agency to require that the contractor and each subcontractor provide an approved *Affidavit of Wages Paid* before the retained money can be released. RCW 39.12.040 states:

*Statement of intent to pay prevailing wages, affidavit of wages paid ...*

*Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.011 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer.*

## Why are they keeping my money?

Since 2009, for public work projects costing \$35,000 or more, the law has required public agencies to withhold 5% of the contract amount until it is demonstrated that all the contractors on the project have paid the appropriate state taxes, including workers' compensation and unemployment insurance premiums. The state Department of Revenue, the Employment Security Department and L&I all approve release of the retainage separately.

## How do I get my money?

If you are a general contractor working on a public works project, the best thing you can do to make sure you get your retained money quickly is to file your *Affidavit of*

*Wages Paid* along with ensuring that all subcontractors have filed their affidavits as well. This is the same affidavit form filed to ensure contractors are paying the correct prevailing wage on their public works project.

## Okay, all contractor and subcontractor affidavits are filed. Now what?

Once the project is final, the public agency involved must file a *Notice of Completion* with L&I for all projects costing \$35,000 or more.

## What happens if one or more subcontractors have not filed their *Affidavit of Wages Paid*?

The *Notice of Completion* will be returned to the public agency. Previously, if L&I received a *Notice of Completion* and could not find an *Affidavit of Wages Paid* on file for all contractors, L&I would attempt to reach the contractors and remind them to file. This time-consuming effort caused significant delays for other customers. In an effort to speed the process, L&I will change its practice and return any NOC that does not list all corresponding affidavit numbers for the project. L&I will notify the public agency and provide information as to what the problem is, how to resubmit the NOC, and request they inform the general contractor of the issue.

### Who can I contact for more information?

Email any questions you have to:  
ContractRelease@Lni.wa.gov or call 360-902-5772.

*Other formats for persons with disabilities are available on request. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.*