



WASHINGTON STATE PREVAILING WAGE LAW SUMMARY
WEATHERIZATION, GRANTS, AND ARRA FUNDS

The following is a summary discussion of Washington Prevailing Wage Law as it applies to the American Recovery and Reinvestment Act (ARRA) funded Weatherization projects. It is not intended to address all situations and all circumstances. This summary is not meant to be a substitute for reading and understanding the laws. After reading the laws and regulations, for detailed consideration of specific issues, please consult the Department of Labor & Industries Prevailing Wage Program Office. Contact information appears on the last page of this document.

PLEASE NOTE – Federal Davis-Bacon “Weatherization” Rates are not to be applied to projects subject to Washington prevailing wage rates, unless the weatherization rate is higher than the state rate for the actual work performed. There is NO state weatherization rate. All of the work described in the federal weatherization rate has a counterpart in state prevailing wage scopes of work. The applicable state scope of work depends upon the actual work performed.

Grant money, including federal dollars from the American Recovery and Reinvestment Act (ARRA) when routed through the state or a local government agency for allocation to projects, private non-profits, etc. become a cost to the state or local government which will trigger state prevailing wage requirements when used for work, construction, alteration, repair or improvement that utilizes the work of a laborer, worker or mechanic.

For projects where both the state prevailing wage law and the federal Davis-Bacon and related Acts apply, contractors and subcontractors must pay the higher of the state or the federal wage rates, on a classification by classification basis. This requirement should be stated in the bid specifications and contracts.

[WAC 296-127-025](#)

The laborer, worker or mechanic is the hands-on type of worker that typically performs manual labor. Work of that nature is the subject of the prevailing wage law, Chapter 39.12 RCW. The Department of Labor & Industries (L&I) establishes the prevailing rate of wage according to law by trade and occupation. The wage rates are published on-line at:

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>

Scope of work descriptions have been adopted as rule to identify the work performed in each trade and occupation. The scope of work descriptions are available on line at:

<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/IsPrevWageJob/default.asp>

There are also “Residential” rates for some trades and occupations. The residential rates may be used only for work within the definition of “residential” in rule WAC 296-127-010(9), which defines residential as follows:

"Residential construction" means construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, when used solely as permanent residences. It does not include the utilities construction (water and sewer lines), or work on streets, or work on other structures (e.g., for recreation and business.)

If the work meets the definition of “residential,” but there is no residential rate for a particular trade or occupation (such as a Roofer), then the commercial rate is used for both residential and commercial work.

All work that is not residential is considered commercial.

For projects subject to both Davis-Bacon and state prevailing wage laws, apply the state definition for “residential construction.” If there is no state residential rate for a particular trade and occupation, the state commercial rate is to be used if it is higher than the federal commercial or residential rate.

New Residential Construction Law – Awarding Agency Liability - A law adopted by the 2009 Washington State Legislature, effective 07/26/09, amends RCW 39.12.030 regarding awarding agency public works contract specifications, and requires that if the awarding agency determines the work meets the definition of “residential construction,” the contract must include that information. [See RCW 39.12.030(2).]

Additionally, the law provides that “if the hourly minimum rate of wage stated in the contract specifies residential construction rates and it is later determined that the work performed is commercial and subject to commercial construction rates, the state, county, municipality, or political subdivision that entered into the contract must pay the difference between the residential rate stated and the actual commercial rate to the contractor, subcontractor, or other person doing or contracting to do the whole or any part of the work under the contract.”

L&I encourages awarding agencies to exercise caution in designating “residential construction” rates in contract specifications, and is available to provide assistance on the issue. You may find a review of Prevailing Wage Policies [11242008](#), [10272008](#), and [07282008](#) helpful. For further information, please contact L&I.

SELECTING THE CORRECT SCOPE OF WORK

For projects where both the state prevailing wage law and the federal Davis-Bacon and related Acts apply, contractors and subcontractors must pay the higher of the state or the federal wage rates, on a classification by classification basis. This requirement should be stated in the bid specifications and contracts.

PLEASE NOTE – Federal Davis-Bacon “Weatherization” Rates are not to be applied to projects subject to Washington prevailing wage rates, unless the weatherization rate is higher than the state rate for the actual work performed. There is NO state weatherization rate. All of the work described in the federal weatherization rate has a counterpart in state prevailing wage scopes of work. The applicable state scope of work depends upon the actual work performed.

The Department of Labor (DOL) has set wage rates in all 39 counties for six separate trades:

1. Weatherization Worker
2. Door and Window Replacement Worker
3. HVAC, Furnace, Heating & Cooling Installer. (This trade is not established in each county.)
4. Carpenter
5. Electrician
6. Plumber

We have identified seven Washington State Prevailing Wage occupations that are the trades most frequently utilized in weatherization projects that fit into the six DOL categories. The Weatherization Rates table on the Prevailing Wage weatherization web site at <http://www.lni.wa.gov/TradesLicensing/PrevWage/Weatherization/default.asp> lists these corresponding Washington occupations and the rate of pay for those classifications effective March 3, 2010. **Please note, do not use these Davis-Bacon classifications and rates for SEP/EECBG projects administered by the WSU Energy Program.** Please refer to the WSU Energy Program for assistance at (360) 956-2097 or goldc@energy.wsu.edu.

The rates on both the federal and state rate tables are for those trades most typically utilized by contractors performing weatherization type work. Please consult the applicable state and/or federal rate web site(s) for rates that would apply to other tasks such work may entail. For instance, if your project involves tasks performed by a roofer, that rate is not on the weatherization table, so you would need to consult the applicable web site(s) for the applicable roofer wage rate.

If there is any doubt about the appropriate state scope of work to apply, please contact L&I’s Prevailing Wage Program for guidance. Please also see “[ARRA Weatherization Message from Steve McLain – November 18, 2009](#)” for special weatherization scopes of work discussion.

Some examples of scopes that likely will occur in weatherization work with **partial** descriptions of the work contained in each scope of work are listed below:

Carpenter (WAC 296-127-01310)

Carpenters construct, erect, install and repair structures, structural members and fixtures made of wood, plywood, wallboard and materials that take the place of wood using carpenter hand tools and power tools. The work includes the fitting and installation of prefabricated window frames, door frames, doors, weather stripping, interior and exterior trim, and finish hardware, such as locks, letter drops and kick plates.

The link to the Carpenter scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01310>

Drywall Applicator (WAC 296-127-01317)

Drywall applicators install plasterboard or other wallboards to ceilings and interior walls of buildings, using hand tools and portable power tools. The work includes installing metal studs for attachment of wallboard on interior walls, cutting wallboard to size, cutting openings for electrical and other outlets, nailing wallboard to wall and ceiling supports, trimming rough edges from wallboard to maintain even joints, and nailing prefabricated metal pieces around windows and doors and between dissimilar materials to protect drywall edges.

The link to the Drywall Applicator scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01317>

Electrician, Inside Wireman (WAC 296-127-01323)

Inside wireman electricians plan the layout, install and repair conduit, wiring, electrical fixtures, apparatus, and control equipment in buildings and adjacent yards to provide electricity for power and lighting.

The link to the Inside Electrician scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01323>

Electronic Technician (WAC 296-127-01322)

Electronic technicians install, operate, inspect, maintain, repair and service (a) radio, television and recording systems and devices; (b) systems for paging, intercommunication, public address, wired music, clocks, security and surveillance systems and mobile radio systems; (c) fire alarm and burglar systems. They also install and pull wire through certain conduit (refer to the scope of work) and perform all cleanup required in connection with electronic technician work.

The link to the Electronic Technician scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01322>

Glazier (WAC 296-127-01331)

Glaziers select, cut, prepare, handle, install or remove all window glass, plate glass, and all other types of glass, including structural glass, mirror glass, tempered and laminated glass, safety or protection glass, all types of insulating glass units, all plastics or other similar materials when used in place of glass and when set or glazed with putty, moulding rubber, cement, lead and all types of mastic, or other materials used in place of same. Glaziers install the above materials in windows, louvers, doors, partitions, skylights, and on building fronts, walls, ceilings and tables, whether the materials are set in wood, stone, cement, or metal of all types.

The link to the Glazier scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01331>

Heat and Frost Insulator and Asbestos Worker (WAC 296-127-01303)

Heat and frost insulators and asbestos workers apply insulation materials to mechanical systems to reduce loss or absorption of heat, prevent moisture condensation and to deaden sound and prevent vibration. The work includes insulation of mechanical systems, plumbing, heating systems, any insulation connected with air handling systems, refrigeration piping and related vessels, boilers, tanks, flues breechings, evaporators, turbines, fittings, valves, ducts, flues, vats and all insulation connected with steam, condensate, feedwater and/or chilled water, or insulation of any mechanical system for sound control.

The link to the Heat and Frost Insulator scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01303>

Heating Equipment Mechanic (WAC 296-127-01333)

Heating equipment mechanics replace the gas and oil burners in furnaces or replace complete furnaces, but they do not install the original furnaces. The work includes, removal of old burner; installation of new burner; connection of fuel lines; installation of instrumentation lines; installation of new fan; firing off; and setting burner on correct ratio.

The link to the Heating Equipment Mechanic scope is

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01333>

HVAC – Sheet Metal Worker (WAC 296-127-01372)

Sheet metal workers perform the handling, conditioning, assembling, installing, servicing, repairing, altering and dismantling of the duct work for the heating, ventilation and air conditioning systems; the setting and the servicing of all equipment and all supports and reinforcements in connection therewith; the testing and balancing of air-handling equipment and duct work; and the installation of furnaces.

The link to the Sheet Metal Worker scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01372>

Insulation Applicator (WAC 296-127-01337)

Insulation applicators install all the insulation material in floors, walls, sound rated partitions and ceilings. They also install insulation materials on roofs, when the material must be measured, cut and nailed to the inside or outside of an existing roofing system. The insulation applicator installs batt insulation, semi-rigid and rigid insulation, blown spray and foam-type insulation.

The link to the Insulation Applicator scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01337>

Laborer (WAC 296-127-01344)

Laborers perform a variety of tasks including those such as apply caulking compounds by hand or with caulking gun to seal crevices; the installation of plastic panels on the inside of existing window frames for insulation (instead of storm windows); and lift, carry and hold building materials, tools and supplies.

The link to the Laborer scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01344>

Painters (WAC 296-127-01356)

Painters perform work including the preparation of surfaces; washing, cleaning and smoothing of surfaces, using sandpaper, brushes or steel wool; removal of old paint or other coatings from surfaces, using paint remover, scraper, wire brush or by sandblasting; filling of nail holes, cracks and joints with putty, plaster or other fillers; color matching and mixing; application of paint, varnish, stain, enamel, lacquer, vinyl, wallpaper and other materials of whatever kind or quality applied to walls or ceilings with paste or adhesive using brushes, spray gun or paint rollers; application of polyurethane elastomers, vinyl plastics, neoprene, resin, polyester and epoxy as waterproofing or protective coatings to any kind of surfaces (except roofs) when applied with brushes, spray guns or rollers; application of sprayed on fire retardant foam; and texturing and decorating.

The link to the Painters scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01356>

Plumber, Pipefitter, Steamfitter (WAC 296-127-01364)

The plumbers, pipefitters and steamfitters assemble, install, and maintain piping systems, fixtures and equipment for the transportation of water, steam, gas, air, sewage, oil, fuels, liquids, gases, or similar substances. The work includes piping systems installed in structures; assembling, installing, and repairing valves, pipe fittings, pumps, sinks, bathtubs, water heaters, and water softeners.

The link to the Plumber, Pipefitter & Steamfitter scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01364>

Roofer (WAC 296-127-01370)

Roofers apply and install any and all types of roofing materials, other than sheet metal. The Roofer installs all types of aggregates used as a ballast for inverted roofing membrane assembly, or roof of similar construction where the insulation is laid over the roofing membrane, and performs the application of roof insulation, when the insulation material is applied as an integral part of the roofing system, whether the insulation material is applied as the first, last or any other layer in between.

The link to the Roofer scope is:

<http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-01370>

Tinting and Coating Installer (WAC 296-127-01394)

Tinting and coating installers apply film, tints and coatings to transparent surfaces, including application of any film, tints, and coatings to the interior or exterior of existing windows, glazed doors, etc. The work includes tints and coatings applied to reduce heat gain and glare, and low-emittance coatings to improve both heating and cooling performance.

Application of Prevailing Wage Law to Other Types of Work

Washington prevailing wage law regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive, administrative or professional in nature. Prevailing wage application depends on the nature of the work that is performed, regardless of the worker's job title. Certain types of work performed on weatherization projects are not regarded as the work of a "worker, laborer or mechanic," and do not require the payment of prevailing wage rates, unless such person is performing construction work, alteration work, repair work, etc.

Some examples of work performed on weatherization projects which *may* not require the payment of prevailing wage rates include the following:

Energy Auditor/Inspector

This person observes, measures, and evaluates the existing structure for energy consumption, loss, and evaluates cost effective options for improvement. The mere inspection is not the work of a laborer, worker, or mechanic and there is no prevailing wage requirement for work that is of this professional/technical nature. If the energy auditor/inspector performs the hands-on work of a laborer, worker, or mechanic, then the nature of that work performed will determine the correct scope of work and prevailing rate of pay required (see categories above).

Crew Lead/Supervisor

This person when only directing the work of others is professional/technical and there is no prevailing wage requirement for work that is of this professional/technical nature.

If the crew lead/supervisor performs the hands-on work of a laborer, worker, or mechanic, then the nature of that work performed will determine the correct scope of work and prevailing rate of pay required (see categories above).

Check with L&I if the details of which scope to use are not absolutely clear

The Industrial Statistician determines the prevailing rate of pay (RCW 39.12.015). In any public work, the facts are crucial to identifying the correct scopes of work to be used. If the facts vary, the answer could be different. Whenever your fact set is less than a perfect match from those specifically addressed above, check with the Industrial Statistician/Prevailing Wage Program Manager for specific answers. The department is happy to provide guidance on your fact set. Please identify the actual circumstances and describe them in full to the department. You may contact us by phone: 360-902-5335 or by e-mail at: PWARRA@Lni.wa.gov.

Joint federal and state law application

Compliance with the Washington prevailing wage law requires payment of at least the prevailing rate of pay to the laborers, workers, or mechanics employed on the public work in the correct scope of work (trade and occupation classification) for the nature of the work performed. Where both the state law (Chapter 39.12 RCW) and the federal Davis-Bacon Act apply to a project the higher of the two standards must be met to comply with both laws. This is defined in rule. The link to that rule, WAC 296-127-025, is: <http://apps.leg.wa.gov/WAC/default.aspx?cite=296-127-025>.

Help For Completing Intent and Affidavit Forms Involving ARRA Funds

Each and every individual contractor and subcontractor on a public works project must individually file a Statement of Intent to Pay Prevailing Wages (Intent), and an Affidavit of Wages Paid (Affidavit) form for each contract to perform work. The forms are filed with L&I and, once they are approved, are submitted by the contractor or subcontractor to the agency administering the contract.

When filing Intent and Affidavit forms, the contractor or subcontractor will need to provide the name of the awarding agency for the project. Typically, this will be the name of a state agency or a municipality (city, town, county, town, port district, etc.). However, please note that for projects which receive funds from the Department of Commerce through another entity, i.e., a community action council or other non-profit entity, etc., and that other entity enters into a contract with the contractor for performance of work on the project, do not list the Department of Commerce as the awarding agency. In those situations, and for this limited purpose, the entity that lets the contract, i.e., the community action council or other non-profit entity, etc., should be listed as the “awarding agency.”

Additionally, and specifically for those entities (non-profit organizations, etc.) who receive these funds, if you are self-performing work on the project, you will be acting in the capacity of both the prime contractor and the awarding agency on the project. Please be aware you may have

additional responsibilities under Contractor Registration Law (chapter 18.27 RCW) when self-performing work of this nature.

Please see “[Streamlined Intent and Affidavit Filing Process ARRA Weatherization Projects.](#)” That document contains detailed information to help you report your weatherization projects using a streamlined process especially for ARRA funded weatherization projects.

If you have questions about filling out the forms accurately, please contact L&I’s Prevailing Wage Program for assistance. You may contact us by phone: 360-902-5335 or by e-mail at: PWARRA@Lni.wa.gov.

Prevailing Wage Booklet:

L&I has a publication on the state prevailing wage law, Chapter 39.12 RCW, available on its web site at: <http://www.lni.wa.gov/FormPub/Detail.asp?DocID=2061>

Selected excerpts from the plain language section of the prevailing wage booklet:

Caution: Please use the actual law and rules in applying prevailing wage requirements. Please seek guidance from the L&I Prevailing Wage Program for any questions.

Introduction

A. How to Use this Booklet: The Plain Language Description chapter of this booklet is provided to help you understand the laws and regulations regarding prevailing wages. A brief explanation is provided here to ease your research into the laws and WAC rules. At the end of each section, the applicable Revised Code of Washington (RCW) and Washington Administrative Code (WAC) references are given so you can directly locate, read and understand the laws and regulations. Together, these references should help you understand your rights and responsibilities. Telephone numbers for contacting the Department of Labor & Industries (L&I) are provided at the back of this booklet, in case you have further questions. You may also e-mail the L&I Prevailing Wage Office at pw1@Lni.wa.gov to request further information.

B. How NOT to Use this Booklet: Do not rely on this plain language description without reading the laws and regulations. The informal discussions below are meant to be helpful when read in conjunction with the laws and WAC rules. They are not meant to be a substitute for reading and understanding the laws. After reading the laws and regulations, please do not hesitate to contact the Prevailing Wage Office with any questions you may have.

The Prevailing Wages on Public Works Act

A. The Law: Enacted in 1945, the Washington State Public Works Act (Act), also known as the “prevailing wage law,” is a worker protection act. It requires that workers be paid prevailing wages when employed on public works projects, and on public building service maintenance contracts.

[RCW 39.04.010](#), [RCW 39.12.010](#), [RCW 39.12.020](#) and [RCW 39.12.030](#)

B. Purpose: The Public Works Act is partly modeled after the federal Davis-Bacon Act, which was enacted to protect the employees of contractors performing public works construction from substandard earnings, and to preserve local wage standards. The employees, not contractors or employers, are the beneficiaries of the Act. The Act is remedial and should be liberally construed. In other words, L&I is directed to apply the law in ways that carry out the law’s intent, which is to protect workers.

C. Application: The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive, administrative or professional in nature. For example, the Act does not apply to the work of a secretary, engineer or administrator, unless such person is performing construction work, alteration work, repair work, etc. Prevailing Wage application depends on the nature of the work that is performed, regardless of the worker’s job title. Any doubts or questions regarding the applicability of the prevailing wage law should be directed to the Prevailing Wage Office.

[RCW 39.12.020](#) and [RCW 39.12.030](#)

Public Work

A. Defined: Public work means work, construction, alteration, repair or improvement that is performed at a cost to the state or any other public agency. This includes, but is not limited to, construction, reconstruction, maintenance, replacement or repair such as demolition, remodeling, renovation, road construction, building construction, ferry construction and utilities construction.

[RCW 39.04.010](#), [RCW 39.12.030](#) and [WAC 296-127-010](#)

Prevailing Wage

A. Defined: Prevailing Wage is the hourly wage, usual benefits and overtime, paid in the largest city in each county, to the majority of workers, laborers, and mechanics performing the same work. Prevailing wages are established by L&I for each trade and occupation employed in the performance of public work. The prevailing rate of wage is established separately for each county, and reflects local wage conditions.

[RCW 39.12.010](#) and [RCW 39.12.015](#)

B. Survey Methodology: The L&I Industrial Statistician determines all prevailing wage rates. Surveys are conducted in which contractors and labor unions are invited to submit wage and hour data to the Industrial Statistician. If the majority of workers in a trade or occupation in the largest city in a county are paid at the same wage rate for the same work, that wage becomes the

prevailing wage for that work. If no single wage rate is paid to a majority of workers in a particular locality, an average wage is calculated and that wage becomes the prevailing wage.

[RCW 39.12.015](#) and [WAC 296-127-019](#)

C. Usual (Fringe) Benefits and Overtime: The prevailing rate of wage also includes usual benefits. Usual benefits include employer payments for medical insurance, pensions, approved apprenticeship training programs, and vacation and holiday pay. Deductions from worker paychecks are not usual benefits. Usual benefits are employer paid. Benefits that are required by law (industrial insurance, social security, etc.) do not qualify as usual benefits. Employers must pay a wage and usual benefits package that adds up to the prevailing rate of wage. If an employer does not provide usual fringe benefits, then the total prevailing wage rate must be paid as an hourly wage. Where applicable, special overtime and holiday rates are also established for each trade and occupation. Since employers are required by federal law to provide eligible employees with a Summary Plan Description (SPD) regarding most employer-paid benefits, typically, the SPD (together with any relevant Summary Material Modifications) and proof of deposits will document such employer payments. Employer paid usual benefits cannot be applied to reduce the actual wage paid below the state minimum wage.

[RCW 39.12.010\(3\)](#) and [WAC 296-127-014](#)

E. Eight-Hour Workday: The Legislature has established an eight-hour workday for public works projects and provided for an exception where there is a properly executed agreement between the worker and the contractor or subcontractor for a 10-hour work day. Agreements for a 10-hour day must conform to the specific conditions set forth in the applicable rule. Basically, the agreement must be voluntary, entered into individually with each worker, and signed and dated by the contractor or subcontractor and the worker prior to the performance of work under the agreement. In any event, overtime rates must be paid for all hours worked in excess of 40 hours.

[RCW 49.28.010](#), [RCW 49.28.040](#), [RCW 49.28.050](#), [RCW 49.28.060](#), [RCW 49.28.065](#) and [WAC 296-127-022](#)

Intents and Affidavits

A. Requirement: Each and every individual contractor and subcontractor on a public works project must individually file Statement of Intent to Pay Prevailing Wages (Intent), and Affidavit of Wages Paid (Affidavit) forms for each contract to perform work. The forms are filed with L&I and, once they are approved, are submitted by the contractor or subcontractor to the agency administering the contract. There is no minimum dollar contract amount which triggers the filing of the forms. Intent and Affidavit forms are required for every public works contract regardless of the size of the contract. For most projects the forms are available for completion on line at: <http://www.Lni.wa.gov/TradesLicensing/PrevWage/IntentAffidavits/GettingStarted/default.asp>

[RCW 39.12.040](#) and [WAC 296-127-040](#), [WAC 296-127-045](#) and [WAC 296-127-050](#)

B. Intents: The Intent form should be filed immediately after the contract is awarded and before work begins. The agency administering the contract cannot make any payments until contractors have submitted an Intent form that has been approved by the Industrial Statistician.

[RCW 39.12.040](#), [RCW 39.12.042](#), [WAC 296-127-040](#) and [WAC 296-127-050](#)

C. Affidavits: The Affidavit form is not filed until after all the work is completed. The agency administering the contract may not release final retainage until each and every contractor and subcontractor has submitted an Affidavit form that has been certified by the Industrial Statistician.

[RCW 39.12.040](#), [RCW 39.12.042](#), [WAC 296-127-045](#) and [WAC 296-127-050](#)

Rights of Workers

A. Background: The Public Works Act is a worker protection law where the worker, not the employer, is the beneficiary. It provides that minimum wage rates must be paid to workers on public works construction projects, so that any incentives to reduce wages to benefit the employer are removed.

B. Posting: Intent forms listing the labor classifications and wages used on the public works project must be posted for worker inspection at the job site for projects over \$10,000. On road construction, sewer line, pipeline, transmission line, street or alley improvement projects, the employer may post this form at the nearest local office, gravel crushing, concrete or asphaltbatch plant, as long as the employer provides a copy of the Intent form to any worker who requests it. In the event the Intent form has not been approved by L&I before work begins, the complete listing of prevailing wage rates for that county may be posted and distributed in lieu of the approved Intent form.

[RCW 39.12.020](#)

C. Wage Statements: Washington employment law requires that employers provide, with each employee's paycheck, an itemized statement showing time worked, rates of pay, gross wages and a list of all deductions. The employee should not have to ask for this; it must be provided with each paycheck.

[WAC 296-126-040](#)

D. Other Records: The employer is required to keep certain records in addition to the pay statement. Payroll records must be kept showing the name, address, Social Security number, trade or occupation, straight time rate, hourly rate of usual benefits and overtime hours worked each day and week, including agreements to work up to 10-hour days, and the actual rate of wages paid. The employer must file with L&I and the awarding agency certified copies of those payroll records within ten days of receiving a written request for such information from an interested party.

[RCW 39.12.010\(4\)](#), [WAC 296-127-320](#) and [Certified Project Payroll Form](#)

E. Wage Claims/Complaints: Any interested party, not just a worker, may file a complaint. This filing involves filling out a form and providing information showing work hours and rates of pay. Claims filed within 30 days from agency acceptance of a project must be investigated by L&I. In addition to filing a complaint or claim with L&I, a worker may have other remedies under the law.

[RCW 39.12.010\(4\)](#), [RCW 39.12.065](#), [WAC 296-127-130](#) and [Worker Rights Complaint Form](#)

Scopes of Work – Trade and Occupation Classifications:

Labor Classifications: All work performed under a public works contract must be classified into one or more of the many labor classifications for which prevailing wage rates have been established so that the appropriate wage can be applied. For example, workers installing sheet metal ducts are classified as Sheet Metal Workers, and should therefore receive the prevailing wage rate for that occupation. Contractors and subcontractors are responsible to ensure that the proper classifications of labor are reported, and should take great care, since this is where many mistakes are made. Scope of work descriptions are available as a guide in determining which labor classification is appropriate. Any doubts or unresolved questions regarding the appropriate classifications of labor must be directed to the Prevailing Wage Office.

[RCW 39.12.010](#), [RCW 39.12.015](#), [RCW 39.12.020](#), [RCW 39.12.060](#), [RCW 39.12.065](#), [WAC 296-127-013](#), [WAC 296-127-0130 through 01396](#), [WAC 296-127-019](#) and [WAC 296-127-060](#)

Bids and Contracts

A. Requirements: All bid specifications and contracts for public work and for public building service maintenance contracts must include certain provisions and information. They must state that prevailing wage rates shall be paid, and they must include a list of the applicable prevailing wage rates. These requirements also apply to certain agreements to rent, lease, or purchase a facility from a private owner (turnkey projects) where the agreement calls for construction or alteration work to be performed.

[RCW 39.04.260](#), [RCW 39.12.020](#), [RCW 39.12.030](#) and [WAC 296-127-023](#)

B. Prohibitions On Bidding: Failure to pay required prevailing wage rates, failure to file required reports, and certain other conduct may prohibit a contractor or subcontractor from bidding on a project.

[RCW 18.27](#), [RCW 39.06.010](#), [RCW 39.12.050](#), [RCW 39.12.055](#), [RCW 39.12.065](#), [RCW 51.48.020\(1\)](#) and [RCW 51.48.103](#)

C. Timing: The prevailing wage rates in effect on the bid due date are the prevailing wage rates that apply to that construction project, no matter how long it lasts, unless the contract is awarded more than six months after the bids were due. For those contracts where the award was delayed more than six months, the prevailing wage rates in effect on the date of the award shall apply for the duration of the contract.

[WAC 296-127-011](#)

D. Small and Limited Works Projects: Purchase orders awarded under small or limited works contracts require payment of prevailing wage rates and filing of Intent and Affidavit forms.

[RCW 39.04.040](#), [RCW 39.04.155](#) and [WAC 296-127-050](#)

E. Threshold Amount: There is no minimum dollar contract amount for public works or prevailing wage. All contracts between a public agency and a private contractor or subcontractor to perform work at the cost of the public agency are public works contracts and require the payment of prevailing wages.

[RCW 39.04.010](#), [RCW 39.12.010](#), [RWC 39.12.020](#) and [WAC 296-127-010](#)

F. Disputes: All public works contracts are required to include a provision stating that the Director of L&I shall arbitrate all disputes of the prevailing rate of wage.

[RCW 39.12.060](#) and [WAC 296-127-060](#)

G. Joint State-Federal Projects: For projects where both the state prevailing wage law and the federal Davis-Bacon and related Acts apply, contractors and subcontractors must pay the higher of the state or the federal wage rates, on a classification by classification basis. This requirement should also be stated in the bid specifications and the contracts.

[WAC 296-127-025](#)

Payment of Reduced Wage Rates

There are four circumstances in which a wage that is less than the journey level prevailing wage rate may be paid.

A. Apprentices: Apprentices are defined as those workers for whom an apprenticeship agreement has been registered and approved by the state apprenticeship council. Under this law, any “helper” or other type of assistant who is not registered with the state apprenticeship and council is to be considered a fully qualified journey level worker, and must be paid the full journey level wage. Workers registered with the Washington State Apprenticeship and Training Council are entitled to the prevailing wage rates for an apprentice of that trade.

[RCW 39.12.021](#) and [WAC 296-127-021](#)

B. Vocationally Handicapped: Workers whose earning capacity is impaired by physical or mental deficiency or injury may be employed upon public works for reduced wages under special certificates issued by L&I. The certificate lists the percent of journey level wage that may be paid to the worker on public works projects. These certificates are filed by nonprofit vocational rehabilitation programs and may be obtained by contacting the Prevailing Wage Office.

[RCW 39.12.022](#) and [WAC 296-127-400 through 460](#)

C. Sole Proprietors, Partners, and Officer/Owners: Sole owners of their own businesses who perform the actual work themselves on public works projects are not required to pay themselves the prevailing wage rates. Partners in a partnership who own at least 30 percent of a company are likewise not required to pay themselves prevailing wage rates. The President, Vice President and Treasurer of a corporation are not required to pay themselves prevailing wage, as long as each owns at least 30 percent of the corporation. These companies are not exempt from the remaining requirements of the statute. Specifically, they are still responsible for filing Intent and Affidavit forms. Any worker performing actual work on the project who owns less than 30 percent of the

company is not exempt and must be paid the prevailing wage rate. [Also see RCW 39.12.100, adopted in 2009 which establishes criteria for independent contractor determination for prevailing wage purposes.]

[WAC 296-127-026](#)

D. Public Employees: Workers regularly employed by the state or any political subdivision created by its laws are exempt from the requirements of the prevailing wage law.

[RCW 39.12.020](#) and [WAC 296-127-026](#)

- End of the selected excerpts from the prevailing wage booklet -

This document is a partial overview and guide to the Washington State prevailing wage law (Chapter 39.12 RCW) for weatherization projects funded by public grant money. For more detailed facts and answers, please contact the L&I Prevailing Wage Program:

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