Prevailing Wage Determinations

2017 Annual Report

December 2017
# Table of Contents

Introduction..................................................................................................................1  
2017 Actions................................................................................................................2
Introduction

The Department of Labor & Industries (L&I) provides this report annually as requested by members of the prevailing wage community. The report summarizes the department’s review of and response to requests for prevailing wage determinations and modifications, or requests for reconsideration of previous determinations, during fiscal year (FY) 2017.

Washington’s prevailing wage law (Chapter 39.12 RCW) was passed by the legislature in 1945. The law is partly modeled after the federal Davis-Bacon Act, passed by Congress in 1931 to preserve the local wages of workers hired for federal public works projects. It protects workers’ wages and benefits by setting a minimum hourly rate of wages, benefits, and overtime that contractors must pay workers on public projects. This ensures workers receive a standard rate of wages and benefits established for the same work in their locality. The law also ensures all contractors competing for public works projects pay their workers the established local wage rate.

When a question arises about the appropriate wage rate, any interested party can request a determination. A prevailing wage determination is a formal decision by L&I’s industrial statistician. A determination decides the classification, called a “scope of work,” that applies to particular job tasks, and the wage that workers in the classification earn. Should the industrial statistician decide to make a formal determination, determinations are appealable agency orders. After an initial determination is issued, a party may seek a modification. A party may also make a request for reconsideration of a determination or modification.

By compiling the information in this report, L&I hopes to provide interested parties one place to review determinations made during the course of the year.
2017 Actions

FISCAL YEAR 2017 DETERMINATIONS, MODIFICATIONS AND REQUESTS FOR RECONSIDERATION

In Fiscal Year (FY) 2017, L&I’s Prevailing Wage Program received five formal requests for determinations or modifications regarding prevailing wages, and provided responses to three of them; two requests were withdrawn by the requester. Seven requests from a prior fiscal year were also answered. In total, ten formal determinations, modifications, and requests for reconsideration were resolved in FY 2017. No requests from previous years remain unresolved.

The following information summarizes L&I’s formal determinations, modifications, and responses to requests for reconsideration. Visit L&I’s website at http://www.lni.wa.gov/TradesLicensing/PrevWage/Policies/default.asp for more detailed information about published prevailing wage determinations and policies.

Request for Determination: Requirement to File Prevailing Wage Intents and Affidavits on Multiple Contracts for a Single Public Works Project

Issued September 14, 2016

A contractor asked whether a subcontractor working for multiple contractors/subcontractors on a single public works project must file an Intent and Affidavit form for each separate contract.

The Industrial Statistician determined that a statement of intent to pay prevailing wages must be filed for each contract and each subcontract entered into to perform work at a cost to the state.

More information is available in the L&I letter responding to the determination request.

Request for Determination: Prevailing Wage Requirement for Point Defiance Bypass Track and Signal Improvements Project

Issued October 17, 2016

A contractor asked the Industrial Statistician to determine whether the surveying services the contractor performed for the Point Defiance Bypass Track and Signal Improvements Project were professional land survey services exempt from prevailing wage, or work performed by the Construction Site Surveyor scope of work classification.

The Industrial Statistician determined that the surveying services were performed under a construction contract in support of a construction project as opposed to a design contract, and thus prevailing wages were required for the Construction Site Surveyor scope of work.
More information about the determination is available in the L&I letter responding to the determination request.

**Request for Determination: Prevailing Wage Rates and Scopes of Work for Construction of Multi-Story, Supported Scaffold for use by Multiple Trades**

**Issued October 31, 2016**

A union representative requested a review of parts of an April 17, 2012 determination by the Industrial Statistician, including a more detailed analysis of the specific language of the Carpenter and Laborer scope of work descriptions as related to scaffold construction.

The Industrial Statistician determined that the terms “erect,” “construct,” and “build” have different historical meanings; therefore, specific aspects of the original determination have been re-interpreted as follows:

- The Laborer scope of work applies to the erection of self-supporting scaffolds of up to two frames in height for use by multiple trades.
- The Carpenter scope of work applies to the building of self-supporting scaffold systems of greater size and complexity for use by multiple crafts.
- Other scopes of work, such as Painters, may apply to the construction of single-craft scaffolds of up to two frames in height.

The remainder of the April 17, 2012 determination remains unchanged.

More information is available in the L&I letter responding to the determination request.

**Request for Opinion: Prevailing Wage Credit for Public Works Projects**

**Issued November 7, 2016**

A company requested the Industrial Statistician’s opinion on whether contributions to the Government Contracts Benefits Trust (GCBT) qualify as “usual benefits” as defined in RCW 39.12.010(3), and thus can be included in the prevailing wage rate. There are restrictions on the types of benefits that can be included in prevailing wage rates.

The Industrial Statistician determined that there was not enough information for a full analysis, but provided the following clarification:

- Benefit purposes such as health benefits, life insurance, disability insurance, apprenticeship training, and vacation and holiday pay are acceptable usual benefits and are included in the prevailing wage rate.
- Excess fringe benefit contributions paid to employees as additional cash compensation are not acceptable usual benefits, and must be properly factored into overtime calculations.

More information is available in the L&I letter responding to the request for an opinion.
Request for Determination: Scope of Work for NSC-BNSF Railway Structures/Realignment Project (Fencing)

Issued December 9, 2016

A contractor requested a determination of the scope of work classification for installation of railings bolted to low concrete walls of a bridge.

The Industrial Statistician determined that, because the work involved fabrication and installation of railings that served a structural purpose, the correct scope of work was the Ironworkers classification.

More information is available in the L&I letter responding to the determination request.

Request for Modification: Scope of Work for Preparation of Swimming Pool and Pool Deck Prior to Painting

Issued December 21, 2016

A contractor requested modification of a determination dated November 10, 2014 regarding the proper classifications of labor for work performed on the Tukwila Pool Project.

The Industrial Statistician affirmed L&I’s November 10, 2014 determination that the Cement Masons scope of work was the correct classification for installation of the seamless composition flooring systems at the Tukwila Pool.

More information is available in the L&I letter responding to the request for modification.


Issued January 30, 2017

REBOUND organization requested a determination from the Industrial Statistician about whether prevailing wage laws applied to work performed on Seattle’s Metropolitan Tract, owned and managed by the University of Washington. The Tract is comprised of six blocks of real property in downtown Seattle.

The Industrial Statistician determined that prevailing wage requirements applied to improvements made to Metropolitan Tract properties whenever such work was done at a cost to the university. The Industrial Statistician made the following observations as part of this determination:

- Chapter 39.12 RCW applies to projects that are a “cost to” the university under Chapter 39.04 RCW and RCW 28B.10.350.
- The Seattle Metropolitan Tract is owned by the university and is managed to accomplish public purposes.
- Tract improvements are funded through trust accounts created under the new Management Agreement.
• Trust account funds are property of the university and are established for the sole benefit of the university.
• Prevailing wage is remedial and must be liberally construed. Exceptions to it are narrowly construed.
• There is no specific exclusion from prevailing wage requirements for Seattle Metropolitan Tract projects.

More information is available in the L&I letter responding to the determination request.

**Request for Determination: Scope of Work for Refinishing Gymnasium Floors**

**Issued March 27, 2017**

A contractor requested a determination of the correct scope of work for labor to refinish gymnasium floors.

The Industrial Statistician determined that the contract work associated with preparing a gymnasium floor for refinishing, application of new finish coatings, and all cleanup work associated with gymnasium floor refinishing falls within the Painters scope of work. This includes the use of certain motorized floor scrubbers, but does not include floor sanding or the work of finishing a newly constructed wood floor.

More information is available in the L&I letter responding to the determination request.

**Request for Determination: Scope of Work for Removal & Clean-up of Power Lines & Poles**

**Issued April 6, 2017**

REBOUND organization requested a determination of the appropriate scope of work for the dismantling, moving, hauling, and clean-up of de-energized power transmission lines.

The Industrial Statistician determined the correct scope of work was Electricians – Power Line Construction, as the work included erecting, repairing and maintaining (including construction, deconstruction, modification and dismantling) of electrical transmission or distribution lines (including all related apparatus such as conductors, poles, insulators, transformers, switch gear or any other system components). This scope of work applies whether the circuits and systems are energized or de-energized.

More information is available in the L&I letter responding to the determination request.

**Request for Determination: Scope of Work for Well Driller/Operating Engineer**

**Issued May 30, 2017**

A contractor requested a determination of the correct scope of work for drilling “grounding wells” for the Norton Substation Site Improvement project. The contractor questioned L&I’s previous
decision to apply the prevailing rates of pay for a Power Equipment Operator, and believed the correct scope of work to be Water Well Driller.

The Industrial Statistician determined that the correct scope of work for the drilling of a grounding well was Power Equipment Operator. The scope of work for Water Well Drillers includes the drilling of wells for water supplies for any purpose including dewatering, exploration drilling and drilling for geologic or hydrologic information, but does not include the drilling of a grounding well.

More information is available in the L&I letter responding to the determination request.