



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
Prevailing Wage
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360/902-5335 Fax 360/902-5300

October 31, 2014

Josh Swanson
Labor Research and Communications
Operating Engineers Union, Local 302
18701 120th Avenue NE
Bothell, WA 98011

Re: Prevailing Wage Determination – Travel Time for Concrete Pumping Activities

Dear Mr. Swanson:

Thank you for your November 1, 2013 letter. You have asked for a determination of the application of prevailing wages to travel time for concrete pumping activities associated with work upon a public work.

This is a determination of the Industrial Statistician regarding coverage of the referenced work under the Washington's prevailing wage laws and is made pursuant to RCW 39.12.015. See the enclosed documents, "*Prevailing Wage Determination Request and Review Process.*" Copies of the RCWs and WACs referenced in this letter are also enclosed.

You describe the use of concrete pump trucks to perform concrete work on a public works construction project. You believe the travel time associated with that work should be paid at not less than the prevailing rate of wage.

The answer below is based on the information you provided. References to the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC) are included. Again, this answer is based on your fact set. If the facts differ from those you provided, the answers may be different.

RCW 39.12.020 requires that "The hourly wages to be paid to laborers, workers or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality, or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such work is performed."

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Public works construction contracts must contain specifications “stating the hourly minimum rate of wage, not less than the prevailing rate of wage, which may be paid to laborers, workers, or mechanics in each trade or occupation required for such public work employed in the performance of the contract either by the contractor, subcontractor or other person **doing or contracting to do the whole or any part of the work contemplated by the contract...**” See RCW 39.12.030(1) (emphasis added).

I agree that WAC 296-127-018 applies in the situation you describe. All workers, regardless of by whom they are employed, are required to receive the prevailing rate of wage when they assist or participate in the incorporation of materials, including concrete, into a public works project. See WAC 296-127-018(2)(f). Concrete pump trucks are used to assist and participate in the incorporation of concrete into a public works project. Additionally, all travel time that relates to this work requires the payment of prevailing wages. WAC 296-127-018(3).

I hope this answers your questions. If you need additional information or have questions, please email or call me at Jim.Christensen@Lni.wa.gov or (360) 902-5330.

Sincerely,

Jim P. Christensen
Industrial Statistician/Program Manager
Jim.Christensen@lni.wa.gov
360-902-5330

cc: Daren Konopaski, Business Manager, Operating Engineers Local 302
Larry Gregory, Field Representative, Local 302

RCW 39.12.020

Prevailing rate to be paid on public works and under public building service maintenance contracts — Posting of statement of intent — Exception.

The hourly wages to be paid to laborers, workers, or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. For a contract in excess of ten thousand dollars, a contractor required to pay the prevailing rate of wage shall post in a location readily visible to workers at the job site: PROVIDED, That on road construction, sewer line, pipeline, transmission line, street, or alley improvement projects for which no field office is needed or established, a contractor may post the prevailing rate of wage statement at the contractor's local office, gravel crushing, concrete, or asphalt batch plant as long as the contractor provides a copy of the wage statement to any employee on request:

(1) A copy of a statement of intent to pay prevailing wages approved by the industrial statistician of the department of labor and industries under RCW [39.12.040](#); and

(2) The address and telephone number of the industrial statistician of the department of labor and industries where a complaint or inquiry concerning prevailing wages may be made.

This chapter shall not apply to workers or other persons regularly employed by the state, or any county, municipality, or political subdivision created by its laws.

RCW 39.12.030

Contract specifications must state minimum hourly rate — Stipulation for payment — Residential and commercial construction work.

(1) The specifications for every contract for the construction, reconstruction, maintenance or repair of any public work to which the state or any county, municipality, or political subdivision created by its laws is a party, shall contain a provision stating the hourly minimum rate of wage, not less than the prevailing rate of wage, which may be paid to laborers, workers, or mechanics in each trade or occupation required for such public work employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract, and the contract shall contain a stipulation that such laborers, workers, or mechanics shall be paid not less than such specified hourly minimum rate of wage. If the awarding agency determines that the work contracted for meets the definition of residential construction, the contract must include that information.

(2) 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.



International Union of Operating Engineers

LOCAL 302 • Washington and Alaska • AFL-CIO

Daren Konopaski, *Business Manager & General Vice President*

November 1, 2013

Roosevelt Currie, Acting Industrial Statistician
Prevailing Wage Program Manager
Department of Labor and Industries
Post Office Box 44540
Olympia, Washington, 98504-4540

Certified Mail

RE: Prevailing Wage Determination – Travel Time for Concrete Pumping Activities

Dear Mr. Currie:

The purpose of this letter is to request a determination for travel time work that is being performed preparatory to concrete pumping activities on various job sites across the state.

Concrete pumping work is an integral part of most construction projects. Pump trucks are utilized to do a fair portion of most concrete work on any given project. We have experienced a fair degree of questions and concerns from our members about whether or not their travel is subject to prevailing wage. To that end, we are requesting a determination from the Industrial Statistician about whether or not their travel time is subject to Prevailing Wage. According to the law in WAC 296-127-018 (3) all travel time is to be paid the appropriate Prevailing Wage for the conditions outlined in the aforementioned section.

In subsection (2)(f) of WAC 296-127-018 it establishes that if “They assist or participate in the incorporation of any materials into the public works project” that the work is covered and should be paid the appropriate Prevailing Wage. We assert that the act of concrete pumping is exactly that and that were it not for this body of work the concrete work would not be executed as is necessary to complete the work. Under *Heller v. McClure* it is clear that this work is covered as it is “necessary for the prosecution of the work” in question.

All things considered concrete pumping work directly incorporates materials into a public work project. That being said, we believe that travel time associated with this work should be covered and paid at the appropriate Prevailing Wage.

We appreciate your review and consideration of this matter and please let me know if you have any additional questions or if we can provide any other information that might be necessary to aid in your ultimate determination for this work. I can be reached at (206) 293-8350 or jswanson@iuoe302.org.

Sincerely,

Josh Swanson, Labor Research and Communications
Operating Engineers Union, Local 302

cc: Daren Konopaski, Business Manager Operating Engineers Local 302
Larry Gregory, Field Representative