



## PREVAILING WAGE POLICY MEMORANDUM

**DATE:** July 31, 2015

**TO:** All Interested Parties

**FROM:** James P. Christensen, Industrial Statistician, Prevailing Wage Program Manager

**SUBJECT:** Prevailing Wage Survey Methodology

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### Policy Disclaimer

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Prevailing Wage should be consulted.

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### Background

Washington's prevailing wage law was enacted to protect the employees of government contractors from substandard earnings and to preserve local wage standards. See Everett Concrete Products, Inc. v. Department of Labor and Industries, 109 Wn.2d 819, 823 (1988).

In recent decades, Washington's citizens have enjoyed a relatively stable and healthy economy. The workforce, including construction workers, has benefited from relatively high wages and benefits. The prevailing-wage law prohibits government contractors from eroding those wage standards by paying lower wages on public-works projects. In this way, the law also helps to protect local employers from wage competition.

Prevailing-wage surveys are designed to identify the local wage standards to be protected.

## Statutory and regulatory provisions

The prevailing-wage survey is one component of administering Washington's prevailing-wage law. The central requirement is found under in RCW 39.12.020:

*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.*

RCW 39.12.010(1) defines prevailing rate of wage as:

*...the rate of hourly wage, usual benefits and overtime paid in the locality...to the majority of workers, laborers or mechanics in the same trade or occupation. [If] there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers or mechanics in the same trade or occupation shall be the prevailing rate.*

RCW 39.12.010(2) defines the locality to be used:

*... the largest city in the county wherein the physical work is being performed.*

This provision establishes both that rates vary by county and that the rate is determined by examining data in the largest city and in the county.

Under RCW 39.12.015:

*All determinations of the prevailing rate of wage shall be made by the industrial statistician of the Department of Labor and Industries.*

For surveys initiated on or after August 1, 2003, RCW 39.12.026 says:

*In establishing the prevailing rate of wage...all data collected by the department may be used only in the county for which the work was performed.*

RCW 39.12.010(4) defines "interested party" to be:

*...a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits and conditions of employment are affected by this chapter, and the director of Labor and Industries or the director's designee.*

Given these and other requirements under chapter 39.12 RCW, it is L&I's duty to determine and publish a prevailing wage rate for each established trade and occupation in each county, subject to certain additional statutory instructions. Once published, these rates must be paid by contractors and subcontractors to workers, laborers and mechanics on all public-works projects.

To do this, L&I makes two sets of statistical assessments: 1) whether a majority rate for each trade and occupation is found in the relevant locality (the largest city in each county) and 2) if there is not a majority rate, to assess an average rate.

Based on state law, a survey methodology is implemented in WAC 296-127-019. The code sets out the major aspects of establishing and updating the published prevailing wage rates in nine parts.

## **Wage Survey Process**

The survey proceeds in three primary parts: 1) Data collection, 2) Validation of the data collected, and 3) Analysis of the data.

As noted above, the wage survey serves two distinct statutorily defined tasks: to assess whether there is a rate of wage paid to the majority of workers in each trade in each locality, and, if there is not, to assess the average rate that is paid for each trade in each locality. Both of these tasks look at the same information and differ primarily in the analysis stage.

The survey process is conducted by an economic analyst and one or more data compilers under the supervision of the Industrial Statistician.

### ***Data collection***

#### **Census approach**

Rather than attempting to take a random sample of each trade or occupation in each locality, which would exclude employers that are not chosen to be in the sample and would limit the volume of data collected, the survey aims to include as many employers as possible and to collect as much relevant data as is possible to assess whether there's a majority and to establish an average wage. L&I attempts to identify and provide a survey form to all businesses in the state that employ workers within the trade or occupation being surveyed. All employers and interested parties (such as labor unions) are invited to participate.

#### **Participation**

Although L&I actively seeks employers with relevant data, employers and other interested parties may participate even if they don't receive a survey. Survey forms are posted on our website while surveys are under way, and interested parties may download, complete and forward the forms to the department. Labor unions may submit data on hours worked for signatory contractors. Survey forms also may be filed by interested parties based on the Affidavit of Wages Paid form or Certified Payroll Records. L&I encourages but does not require participation.

L&I sends surveys broadly to all employers with a reasonable chance of having relevant data to report and to labor unions that represent employees who work in the trade being surveyed. On average, about 20-25% of survey recipients respond. The participation rate among large employers appears to be high, close to 100%. Therefore, the proportion of the statistical data universe (all wages and hours in the construction industry) that is received by L&I, while difficult to measure, is considerably higher than the (20-25%) basic response rate.

#### **Mailing lists**

With few exceptions, every employer in Washington is required to either participate in the state's workers' compensation program or provide similar coverage through self-insured programs.

Most construction companies in Washington participate in the “state fund” system. They are required to report worker hours on a quarterly basis and to categorize those hours according to risk classifications. These reports provide information about what activities the workers are performing, and L&I uses this information to target surveys to specific employers. This “state fund” information is the primary source of mailing lists for the prevailing-wage survey. Self-insured companies that are not required to report worker hours to L&I, are also included in survey mailing lists. For certain construction trades and occupations, other mailing lists are used such as lists of registered contractors or licensed electrical contractors.

Substantial effort is made to ensure that survey mailing lists include every employer in Washington that employs the category of workers being surveyed. During a survey, if L&I becomes aware of an employer that did not receive a survey form or that the form has been lost, a form will be provided. Also, survey forms are publicly available to download from our website during a survey.

### **Survey period**

Survey forms ask employers to report wages and hours worked over a specific period of time. The period of time is usually six to twelve months. Survey periods usually start and end at the beginning of a quarterly period (e.g., Jan. 1, April 1, July 1 or Oct. 1).

### **Survey form and instructions**

The survey form and instructions used by L&I have been developed over the history of the prevailing-wage survey process to ensure that all necessary information is reported. Failing to follow survey instructions is the most common reason an employer’s survey form cannot be used.

### **Validation**

Once data are submitted, they must be entered into a calculation spreadsheet or database, but this is done only when the data meet the requirements of the survey process. L&I reviews whether the survey form is 1) submitted timely, 2) complete, 3) relevant and 4) accurate. With each survey, the department receives a number of forms that weren’t filled out properly and cannot be entered without additional information or clarification from the survey respondent.

### **Timeliness**

Beginning from the initial mailing, employers are given a deadline to complete and return survey forms. The period of time is usually two to three months. This information is stated on the survey form. Forms submitted after this deadline may not be used in calculations.

### **Completeness**

Examples of problems with completeness:

- Data left blank. For example, leaving the Trade/Classification section blank.
- Survey is not signed in the signature section at the bottom.
- Survey is unreadable, or a portion is missing.
- A salary is listed in lieu of the requested wage-and-hour data.

Survey forms with problems like these are not entered into the calculation database or spreadsheet initially. If a data compiler is unsure about what data to enter or how to record the data, the economic analyst will review the form. If the economic analyst is unsure how to handle certain data, he or she will consult with the Industrial Statistician.

### **Relevance**

Information on the form may not be within the range of data being surveyed. For example, in a Carpenter survey, a respondent might report hours and wages for “Electrician.” Likewise, data may be submitted for a trade or occupation that falls outside the class of workers, laborers and mechanics to which the law applies (e.g., “Project Superintendent”). This data is not used.

### **Accuracy and verification**

Whether submitted by employers or interested parties, respondents must report all available wage-and-hour data. Employers have access to all hours worked by all workers. When submitting wage-and-hour data, the employer must include all work performed on both public and private projects. If L&I identifies hours and wages that should have been included on a survey form but were omitted, the department will not use the data submitted. The department may contact the respondent to gather more information.

WAC 296-127-019(4)(d) allows interested parties to submit survey data on behalf of employers using Certified Payroll Records or Affidavits of Wages Paid. Interested parties must attach copies of these source documents to the completed survey form so L&I may validate the data. Private works data to which interested parties do not have access are not required to be reported on survey forms filed by those interested parties. Labor unions filing on behalf of signatory contractors under WAC 296-127-019(4)(c) are not required to attach these source documents.

Survey data from contractors, labor representatives and interested parties is accepted as accurate unless L&I receives information suggesting there is an inaccuracy in a survey report (e.g., discrepancies between documents received and reported data that are clearly outside the expected data range, such as an apprenticeship contribution of \$17/hr.).

### **Repairing and editing survey forms and data**

If a company submits valid and complete survey data and an interested party also submits survey data on behalf of that company, L&I will use the data submitted by the company and not use the data submitted by the interested party. It is generally assumed that an employer has more complete and accurate data with which to complete a survey report than an interested party filing on behalf of that employer. If the two submissions differ sharply, then L&I may inquire about the reasons for the differences.

Where it is feasible to do so, L&I may attempt to repair survey forms that were not properly completed. A decision to repair or complete certain survey submissions is made based on three criteria:

- 1) What effect might the data have on the calculation? For example, if repairing certain survey forms will provide wage-and-hour data in counties where no other data are

available, then every attempt will be made to repair the survey submissions and retrieve the data.

- 2) How many survey forms will require action and the complexity of the required actions.
- 3) The level of staffing resources available for this activity.

### **Analysis**

Prevailing wages are calculated on a county-by-county basis and are based on the hours reported in the largest city, where possible. Typically, a high volume of data are reported for King County (and Seattle). King County data for a single survey can be as high as several million hours. For Washington's smallest counties, data can be scarce. It is not uncommon for L&I to receive no hours for the relevant trades in several of the more rural and sparsely populated Washington counties. L&I never uses data in one county to calculate a prevailing wage in another county. If no data are reported for a county, the existing prevailing wage in that county is not recalculated.

“Foreman” or “lead worker” hours are included in surveys (WAC 296-127-015). Apprentice, “trainee” and “helper” hours and wages are not included in prevailing-wage surveys. Only the wages and hours of fully qualified journey-level workers are used to calculate prevailing wages.

### **Calculation of whether there is a majority wage in the locality**

The prevailing rate of wage is the hourly wage, usual benefits and overtime paid to the majority of workers in a trade or occupation, in the largest city in a county. If the majority of hours reported in the largest city were worked at one wage (including benefits), then that combination of hourly wage and usual benefits become the new prevailing wage. Where the sums of the hourly wage and usual benefits for two contractors are identical, L&I regards the two contractors' rates to be identical for purposes of determining whether a majority of workers is paid the same rate.

Where a set of wage rates is established for occupations within a trade based on the specific tasks and duties being performed, such as the wages specified for sub-classifications within a collective bargaining agreement, the number of hours worked under each occupation will be summed together to determine whether there is a majority of hours paid at the same wage rate for the trade or classification.

Where occupations within a trade are established on the basis of the different tasks and duties performed and the wage is increased during a survey period, the post-increase wage will be attributed to those hours. Usually, this occurs under a collective bargaining agreement.

### **Calculating an average wage in the locality**

If no one rate is paid for more than 50% of the hours worked for the relevant trade in the largest city in a county, then the average of all hours, wages and benefits reported for that city is calculated and becomes the new prevailing wage. This average calculation is a “weighted average” (i.e., each wage and benefit combination is “weighted” by the number of hours reported at that rate).

If there are no hours in the largest city, or if the number of hours in the largest city falls below the proper threshold (WAC 296-127-019(6)(d)), then all the data from the county are used, including data from outside the largest city. In this instance, a weighted-average calculation is used. If the volume of data received for the entire county falls below a threshold determined by L&I's Industrial Statistician, then the prevailing wage is not recalculated.

## Updating Wages

Where the wages from a collective bargaining agreement are determined to be the prevailing wages in a locality, the prevailing wages are periodically updated according to the scheduled increases in that CBA. Where the wages paid to a group of workers not covered under a CBA are recognized as "prevailing wages" in a locality, and where those workers' wages are increased according to the tasks and duties performed, the prevailing wage in that locality is updated accordingly.

Where the sum of the hourly wage and usual benefit amounts for a contractor are identical to the existing prevailing wage, and where that prevailing-wage rate was derived from a collective bargaining agreement, L&I regards the hours reported at that rate as "CBA-derived" for the purpose of periodic updates (WAC 296-127-019(1)(b)).

Where an "average" wage calculation becomes the prevailing wage because insufficient hours are reported for the largest city in the county but sufficient hours are reported for the entire county, and where the only wage reported is the CBA rate, then that wage is considered "derived" from a CBA and will be periodically updated to reflect the most current rates in that CBA.