



City of Pullman
Public Works Department
MEMORANDUM

FROM: Mark Workman, Public Works Director

RE: Prevailing Wages, Contracting, Sales Tax

DATE: November 29, 2010

The purpose of this memorandum is to provide guidance to city personnel who are responsible for contracting for new construction, repair, or maintenance relative to City of Pullman property, facilities, or equipment. The following analysis can be somewhat confusing, but it helps to remember that basically there are three ways to contract, two ways to document the payment of prevailing wages, and the thresholds do not correlate with each other.

For any work performed for the city by outside forces (non-city personnel), including service contracts, it is required that prevailing wages be paid to the employees of that firm, with the following exceptions:

- The owner of a company (at least 30%) is not required to pay himself prevailing wages.
- Professional services, such as engineering and architecture, are not required to pay prevailing wages.
- Work performed for the city off city property, such as fabrication of a bearing at a welding shop that is then installed by city forces, would not require that prevailing wages be paid.

In the previous example, if the old bearing was removed from equipment on city property by the contractor and the new bearing was installed by the contractor, prevailing wages would be required for the work performed while on city property, but not for the off site fabrication work.

- Work on rolling stock does not qualify as Public Works, even if performed on city property, and prevailing wages are not required to be paid.
- Individuals who are physically or mentally impaired may have a federal or state issued certificate that allows them to be paid at a rate lower than prevailing wage. In such cases, the rate noted on the certificate is the minimum wage that must be paid

and a copy of that certificate needs to be provided to the city and included with any related documentation.

- The prevailing wage is the minimum that must be paid. An employer is not restricted from paying a higher wage to employees.

If the work is small (less than a few hundred dollars), simple work or small work where the scope is somewhat unknown, the work can be authorized by purchase order, but the contractor should be on our small works roster (this is kept in the office of Public Works and we have forms that are simple for a contractor to fill out) and the following statement needs to be included on the purchase order:

“This is a prevailing wage project” or “This is prevailing wage work” as appropriate

We are also required to provide the contractor with a copy of the most recent listing of prevailing wages. These are updated twice per year, usually in March and August and are available from the Public Works office, on the internet at <http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>, or may be requested by phone from the Department of Labor and Industries (L&I) at (360) 902-5335. DO NOT attempt to tell the contractor what wages and benefits should be paid; refer them to L&I at the noted phone number.

If the work is more than a small project or not simple, a “PROPOSAL AND SPECIFICATIONS FOR SMALL PROJECTS” agreement should be used in addition to a purchase order and any proposal from the contractor. This agreement will address prevailing wages as well as scope of work, contract time, sales tax, permits, insurance, bonds, payment, and retainage. This agreement is a Public Works document that Public Works will help you prepare and that is then executed by the Public Works Director and the contractor.

For both purchase order work and small project agreement work, we are required to award the work to the “most qualified” contractor available on the small works roster. The best way to do this is to request quotes from qualified contractors. For certain types of work (small and repetitive) where it makes more sense to just select a contractor off the small works roster and there is not much difference in the various contractors, the work should be spread around. Do not just give all the work to one favorite contractor.

For more significant work and certainly for work over \$15,000, the project should usually be performed by full contract. All work of this type should be administered by the Public Works Department and awarded by Council after competitive bid.

For all projects, there are paperwork requirements to document that prevailing wages have been paid to employees. For projects over \$2,500, contractors are required to provide approved “Statement of Intent to Pay Prevailing Wage” and “Affidavit of Wages Paid” forms. Technically, the contractor is not to be paid for any trade work until we have an approved Intent form on file for that trade. Practically, this requirement is sometimes overlooked depending on the scope of work and extenuating circumstances. The Public Works Director can provide direction in these

situations. The most important requirement is that we get approved Affidavit forms. To ensure this, 5% retainage should be withheld from payment until all required Affidavit forms have been approved by the Labor and Industries and received by the city.

For all projects under \$2,500 – even small, simple work – there is a combined Intent/Affidavit form that can be used. With this form, the contractor fills out the form as usual, but submits the form to the city instead of sending it to L&I. The city collects these forms and sends them to L&I at the end of each month. Completed forms should be submitted to the Public Works office for combined mailing to L&I. To ensure that the Intent/Affidavit forms are filled out and submitted to the city, at least 5% should also be retained for these projects until that has been completed. If only one payment is to be made, the Intent/Affidavit form should be filled out and submitted before that payment is authorized. Again, if the contractor has questions about what trade they might be or how to otherwise interpret the prevailing wage requirements, they should contact L&I directly. Once the forms are submitted, it is then the city's responsibility that the proper trades, wage rates, and fringe benefits are noted. If there is any concern that the proper wages are not being paid during the course of the work, certified payrolls or other documentation should be obtained from the contractor. Copies of the Intent/Affidavit forms, instructions, and procedures are available from the Public Works office.

One final, somewhat related, issue deals with sales tax. Transportation related work does not require the payment of sales tax. If it is thought that this might be the case for a project, contact the Public Works Director for further information and direction.