



STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

DATE: November 18, 2009

TO: Community Action Programs  
Department of Commerce

FROM: Steve McLain, Assistant Director  
Specialty Compliance Division

SUBJECT: Commerce – Labor & Industries  
Weatherization for American Recovery and Reinvestment Act

Thank you for meeting with us earlier this month. The following is a review of weatherization project questions you raised at our meeting. L&I's response to each concern is indicated in blue following the statement of each item.

- 1) There was a question about the description of work for Heat and Frost Insulator and Asbestos Worker scope (in particular the asbestos worker portion of the scope and a residential insulation versus the commercial insulation rate).

Answer: We have explored this issue and have provided guidance during our training sessions this past week. Insulation of heat and air ducts and water pipes is covered under the Heat and Frost Insulator and Asbestos Worker (WAC 296-127-01303) scope of work. Since there is no distinction in that scope of work between residential or commercial work, the rate as published must be paid for any of this work regardless of the type of building. Most contractors have indicated they plan to track this time separately from other work and pay for it under the published rate for only the time spent performing that work.

- 2) There was mention of other housing programs with combined duties like weatherization that we agreed to try to look into to see how they comply with prevailing wage.

Answer: We are in the process of attempting to identify any program(s) that do combined work. We will provide updates as they become available.

- 3) We were asked if we would be willing to consider or reconsider our interpretations of particular scope of work activity description areas that the CAPS would like us to look at.

Answer: Some of the CAPs were going to send a list of those areas for which they thought there might be some ability for the department to interpret our rules in a way that may make things easier for the CAPs. We have not received anything specific from them to date.

- 4) We were asked to look at scopes to see if certain workers qualify for journey level wages or if there is an ability to pay less than journey level wages to newer, less experienced workers.

Answer: Journey level wages must be paid to all workers unless they are Registered Apprentices in a state recognized Apprenticeship Program and performing work for a Registered Training Agent. If either condition is not present the employee must be paid at least the published journey-level prevailing wage rate for the type of work performed.

- 5) CAPS expressed concerns about confidential homeowner information required on the Intents and Affidavits.

Answer: The department will accept a unique identifier for each individual house/unit, as established and maintained by the CAP. Contractors may include the identifier on the Intent and Affidavit as long as it has been assigned by the CAP and applies to only one house/unit. (You cannot use “scattered sites” for the project designation.) There is no public access to either the identifier or address and the department believes that the confidentiality of this information is protected and not subject to disclosure.

- 6) We were asked to look into whether there is some flexibility to allow for less frequent, i.e. annual, filing of Intents and Affidavits.

Answer: We have looked into this request and have determined that the approach we are currently applying which creates some exceptions for these projects is defensible under the department’s statutory responsibilities, while maintaining an accommodation for CAP/weatherization contractor needs. We are open to other suggestions that could reduce the administrative burden and still provide the state the necessary information to enforce the regulations, while adhering to statutory requirements.

- 7) There was a question about electrical fixture maintenance workers that I’m not sure whether we answered in the meeting, so I’ll keep it on the list until I meet with folks on Thursday am. We did, however, agree to look closely at the Guidance document and the scopes for consistency.

Answer: We looked into this issue and it appears we included this classification by mistake. Electrical Fixture Maintenance Workers can only perform work in non-residential settings. The department removed the classification from the table. The appropriate classification for this work is Laborer (WAC 296-127-01344) for in-place fixture cleaning work and in-place fixture light bulb replacement. Any other work performed on light fixtures is the work of Inside Wireman Electricians (WAC 296-127-01323).

- 8) We agreed to see if we could facilitate, or initiate a meeting with labor and the CAPS.

Answer: It is our understanding that labor representatives have reached out to schedule a meeting with CAPs to begin discussions. The department is willing to act as a facilitator or participate in the meeting if either the CAPs or unions would like the department to be present.

- 9) There were two really compelling situations that I heard and acknowledged. I am not sure we can do anything more about these issues but at least want to understand them better - those were (1) the examples of insulation of mobile homes raised by the Spokane program person, (2) the King County example of replacement of oil furnaces with heat pumps and (3) the question of a residential rate raised by John Flynn of King County.

Answer:

(1) The department has reviewed the scope of work for insulation work.

- a) Insulation of heating and air ducts and water pipes (mechanical systems) is the work of Heat and Frost Insulators and Asbestos Workers (WAC 296-127-01303).
- b) Insulation of floors, walls and ceilings is the work of Insulation Applicators (WAC 296-127-01337).

(2) The department has reviewed the scopes of work for Sheet Metal Workers (WAC 26-127-01372), Heating Equipment Mechanics (WAC 296-127-01333) and Refrigeration Mechanics (WAC 296-127-01367).

- a) Both the Sheet Metal Workers and Heating Equipment Mechanics scopes allow the replacement of gas and oil furnaces.
- b) Heating Equipment Mechanics cannot install the original furnace. Original gas and oil furnaces are installed by Sheet Metal Workers. Original furnace heat pumps are installed by Sheet Metal Workers and Refrigeration Mechanics.
- c) Sheet Metal Workers, Heating Equipment Mechanics and Refrigeration Mechanics may repair and/or replace furnace heat pumps.

(3) Please see the answer to question # 1 where the question of residential versus commercial rates is addressed.

- 10) We were asked for advice on the wage rate for installation of a battery powered smoke or carbon monoxide detector.

Answer: The classification for this work is Carpenter (WAC 296-127-1310) or Electronic Technician (WAC 296-127-01322) and either of these would be the correct wage rate to use.

In summary, L&I continues to work on a daily basis with CAP personnel and their contractors to help with the implementation of prevailing wage requirements in an effort to facilitate expeditious utilization of ARRA weatherization funds. Based on information gathered at this November 5 meeting and similar meetings and workshops, we will continue to revise our publications to clearly set forth policies and procedures applicable to ARRA weatherization projects.

We remain open to suggestions, and will do whatever we can to assist, within the framework of our statutory responsibilities.