



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
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April 12, 2007

Randy Dubigk, Documentation Engineer, Construction
Washington State Department of Transportation
P.O. Box 47300
Olympia, WA 98504-7300

Re: Professionals on design-build projects and requirements to file Statements of Intent to Pay Prevailing Wages and Affidavits of Wages Paid forms

Dear Mr. Dubigk:

You have asked for a determination of requirements to file the Statement of Intent to Pay Prevailing Wages (Intent) and Affidavit of Wages Paid (Affidavit) forms for professionals working on public works projects using the design-build process. You note that in traditional design-bid-build projects the contract for a design professional is separate and has not typically required the filing of the Intent or Affidavit forms.

For the design-build process, the design work has been co-mingled with the construction work in one contract with the prime contractor. The design-build process and other alternative project delivery concepts use overlapping or concurrent design and construction to achieve goals of time savings and avoidance of costly change orders.

The answer below is based on the information you provided. If the facts differ from those you provided, the answers may be different.

Professional/technical services providers on design-build public works may not be required to file Intent and Affidavit forms under specific circumstances. Contractors and subcontractors must file the Intent and Affidavit forms.

The WAC for prevailing wages has a limited definition of contractor:

"Contractor" means:

(a) The prime contractor, and each and every subcontractor, required to be registered under chapter [18.27](#) RCW and/or licensed under chapter [19.28](#) RCW, that performs any work on a public works project site, and/or is required to pay industrial insurance premiums as a construction company.

(b) Employers engaged in shipbuilding and ship repair, building service maintenance, and any fabricator or manufacturer that produces nonstandard items specifically for a public works project.

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(c) Employers that contract with contractors or subcontractors for the purpose of the production and/or delivery of materials pursuant to the terms of WAC [296-127-018](#).

WAC 296-127-010(5)

Professional/technical service providers are not required to file Intent and/or Affidavit forms when no work that could be included in the definition of contractor (above) is performed.

If work that requires the filing of the Intent and Affidavit forms is performed and professional exempt work is also performed, the craft workers and wages (not less than the prevailing rate) are listed on the forms and the professional/technical employee is also listed by their appropriate category, e.g. “architect” and the wage rate would be listed as: “exempt.”

I hope this answers your questions. If you need additional information or have questions, please call or email me at 360 902-5330 or somd235@lni.wa.gov.

Sincerely,

David J. Soma
Industrial Statistician
Prevailing Wage Program Manager

Soma, David (LNI)

From: Dubigk, Randy [DubigkR@WSDOT.WA.GOV]
Sent: Friday, March 16, 2007 3:35 PM
To: Soma, David (LNI)
Cc: McDaniel, Craig; Tharp, Fred; Pate, Ron
Subject: SI & AWP for Design Build
Follow Up Flag: Follow up
Flag Status: Red

David,

As you are aware, WSDOT has recently been advertising and awarding Design-build projects in accordance with RCW 47.20.780 and 47.20.785. Design-build is a method of project delivery in which WSDOT executes a single contract with one entity (the design-builder) for design and construction services to provide a finished public works project. In a traditional WSDOT contract, the design process is completed independent of the construction contract (design-bid-build). If WSDOT hires a consultant to do the design work on a traditional design-bid-build project, the design work is considered professional in nature and is therefore not subject to prevailing wage laws.

However, in talking with you, you stated that with the Design-build process, the companies doing professional work would not be subject to pay prevailed wages, but may be required to submit a *Statement of Intent* and *Affidavit of Wages Paid*. By doing so, this documents that indeed they are working on a public works project, they have been accepted as professional services and no other requirements are necessary regarding prevailed wages (similar to HVAC testing companies). In our case, these companies would be doing a variety of professional work such as: Designing bridges, the roadway prism, calculating quantities, producing (drafting) the plans for the project, inspecting and testing materials, etc.; work not fitting into the laborers and mechanics classifications.

Could you verify if the companies sub-contracted to perform professional work on a Design-build public works project are required to submit *Statement of Intent* and *Affidavit of Wages Paid*.

If you have any questions at all, please feel free to contact me. Thanks David.

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