



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
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360/902-5335 Fax 360/902-5300

December 28, 2006

Mr. James Morris
MPH Holdings, LLC
1520-C Irving Street S.W.
Olympia, WA 98508

RE: Request for determination of prevailing wage application on a turn-key project in Kelso, Washington.

Dear Mr. Morris:

This letter is in response to your request for a determination of how prevailing wages are applied to your project in Kelso, WA.

As I do not have the request in writing, my determination will necessarily be limited to the facts as I understand them to be and if the actual facts differ in any way, the determination will, of course, not apply.

The facts, as I understand them are: You have been approached by the Western Washington Workforce Development Council (WWWDC) to renovate a building in Kelso Washington. The building is to be leased by them for use by a consortium of approximately nine other agencies. One of those agencies is Washington State Employment Security (ESD).

WWWDC will lease approximately 13,500 sq. ft. of the 18,000 sq. ft. in the building. In turn ESD will sub-lease approximately 70% of the 13,500 sq. ft. or about 9,450 sq. ft. This 9,450 sq. ft. comprises more than 50% of the building.

You have three questions. Is the entire building then covered by 39.12 RCW? If not, is the ESD portion covered by 39.12 RCW? If the building is covered, is the approximately 4,500 sq. ft. not occupied by any of the consortiums and 100% private ownership covered?

Without iterating the process by which I arrived at my decision, I conclude that the Public Entity (ESD) caused the construction to be performed per 39.04.260 RCW. Therefore, the building is subject to 39.12 RCW. Likewise, the 9,450 sq. ft. occupied by ESD would also be subject to 39.12 RCW. The remaining 4,050 sq. ft. may also be subject to 39.12 RCW depending on the configuration of the area(s). If the entire area is configured as a "common" service area, then it is all prevailed on the same concept as the 50% of the project. For example, if there is a common reception area with a common receptionist(s) giving the impression of one organization, then it is not possible to differentiate between ESD's area and the others. This would trigger 39.12 RCW for the entire 13,500 sq. ft.

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As for the remaining 4,500 sq. ft., they would also be prevailed for roofing, siding, painting and core because more than 50% of the 18,000 sq. ft. are contracted for by a qualifying agency (ESD).

However, you then asked if it was possible to write separate contracts for the two separate portions of the building. Your rational being the remaining 4,500 sq. ft. is to be privately developed for private use and would have no relationship with the rest of the building. You also indicated that there is a natural or you will build a divider between the two sections. It appears this is possible as long as two criteria are met. You must have two separate contracts for the two portions of the building. The work on one portion of the building must be completely separate from the work on the other portion. This means that the work can not be done simultaneously or concurrently. The work on one portion (contract) must be completed before work on the other portion (contract) is started. There will have to be a notable separation between the work on one part of the building and work on the other part.

I hope this answers your questions and provides you with the information necessary to proceed with your project. If you have additional questions or need clarification, please call me at 360-902-5330 or email me at somd235@lni.wa.gov and I will do my best to provide a timely response.

Sincerely,

David J. Soma
Program Manager & Industrial Statistician