



PREVAILING WAGE POLICY MEMORANDUM

DATE: May 11, 2009

TO: All Interested Parties

FROM: David J. Soma, Industrial Statistician, Prevailing Wage Program Manager

SUBJECT: Requirement to File Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid Forms

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.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

The law requires a contractor, subcontractor, or other person doing or contracting to do the whole or any part of the work contemplated by a public works contract to file a Statement of Intent to Pay Prevailing Wages (Intent) and an Affidavit of Wages Paid (Affidavit).

All tiers of contractors and subcontractors on a public works project must file Intent and Affidavit forms.

RCW 39.12.040 requires the filing of Intent and Affidavit forms by “the contractor and each and every subcontractor from the contractor or subcontractor.” This requirement also applies to owner/operators and sole proprietors.

Public agencies may not release even the initial payment on a public works project without an approved Intent. Following the final acceptance of a public works project, the public agency must have an approved Affidavit from all contractors and all subcontractors at all tiers before the funds retained (retainage held) under RCW 60.28.011 may be released. Failure to follow this

requirement of RCW 39.12.040 creates a liability for the agency for any unpaid wages under RCW 39.12.042.

Contractors who fail to file, or file false information on an Intent or Affidavit risk sanctions and penalties under RCW 39.12.050. Two violations of RCW 39.12.050 in a five year period will result in debarment from public work for a one year time frame.

Although not statutorily required, if you hire subcontractors it is recommended that you use the standards in RCW 39.12.040 that apply to the public agencies as a guide: Do not pay any money to a subcontractor until they have an approved Intent; and do not pay the final payment to a subcontractor until they have an approved Affidavit.

The WACs, and other Washington State prevailing wage information are available on the Department's web site: <http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp>