



Indiana

Department of Labor

Advancing the safety, health and prosperity of Hoosiers in the workplace

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Greetings:

As a result of passage of House Enrolled Act 1216 (HEA 1216) and Senate Enrolled Act 418 (SEA 418) during the first Regular Session of the 2011 Indiana General Assembly, the Indiana Common Construction Wage Act (CCW Act) and the process by which “prevailing” wages are determined for state and local government construction projects in Indiana will change on July 1, 2011.

The Indiana Department of Labor will continue to assist and support state and local government agencies, construction contractors, construction workers, construction labor organizations, engineers, architects, and other stakeholders who use the Common Construction Wage process.

The following notice contains important information about the changes to the Common Construction Wage Act and guidance to assist stakeholders in managing the transition to a slightly different Common Construction Wage process.

Sincerely,

A handwritten signature in black ink, reading "Rick J. Ruble". The signature is written in a cursive style with a large, looping initial "R".

Rick J. Ruble
Deputy Commissioner of Labor and General Counsel

The Role of the Department of Labor

The Indiana Department of Labor will continue to play a role in the Common Construction Wage determination process. The Department will assist and support state and local government awarding agencies, construction contractors, construction workers, construction labor organizations, engineers, architects, and other stakeholders who use the Common Construction Wage process. The Department will schedule hearings, attend hearings, catalogue wage scales, and administer and enforce the Indiana Common Construction Wage Act.

Committee Constitution

Common Construction Wage committees determine the scale of wages to be paid to workers on public construction projects covered by the Act. Presently, the Governor of the State of Indiana appoints one member to the Common Construction Wage committee. After July 1, 2011, the Governor will no longer appoint a committee member. Instead, the President of the Associated Builders and Contractors (ABC) will appoint the fifth committee member.

Reports Presented at Committee Hearings

Presently, the Common Construction Wage Act contemplates that wage committees will consider reports from the Indiana Department of Workforce Development (DWD). The language concerning DWD reports is repealed effective July 1st. After July 1, 2011, the Act instructs committees to consider reports with respect to wage scales submitted by the Indiana State Building and Construction Trades Council and the Associated Builders and Contractors. Committees may also consider any other information submitted by any person to the committee. Committees are not required by law to consider information that is not presented to the committee.

Coverage of the Common Construction Wage Act

Presently, the Common Construction Wage Act covers most state and local public construction projects where the cost of construction is \$150,000 or more. That threshold increases to \$250,000 on January 1, 2012 and to \$350,000 on January 1, 2013. Due to an error in one of the bill's amendments, the Act does not contain a dollar-value threshold for the six-month period from July 1, 2011 through December 31, 2011. This means that most state and local public construction contracts awarded from July 1, 2011 through December 31, 2011 will be covered by the Act, regardless of the cost of the construction.

Wage Scale Expiration

When a Common Construction Wage committee makes a determination and adopts a scale of wages for a covered construction project, that wage scale is generally considered valid for that project only and for the duration of the project if contracts for the work are awarded within twelve (12) months after the date the scale is adopted. This will change beginning July 1, 2011. After July 1, 2011, a scale of wages adopted by a state or local government agency for a covered construction project also applies to any other public work construction contract for which the awarding government agency awards bids not later than three (3) months after the date the committee adopts the wage scale for the original project. Thus, a wage determination made for a covered public work construction project applies to any other covered public work construction project undertaken by the same government agency and in the same Indiana county where the

wage determination was made for the first project, as long as the construction contract is let (awarded) within three (3) months after the date of the original wage determination.

Adopt “Complete” Wage Scales

After July 1, 2011, if a state or local government agency adopts a scale of wages for a covered construction project and then advertises for a subsequent covered public work construction project that requires the employment of “trades” or “crafts” that are not listed on the existing wage scale, the Common Construction Wage Act requires the awarding agency to form a new Common Construction Wage committee to determine the classifications and wages for the subsequent contract. Thus, it is important for state and local government awarding agencies and Common Construction Wage committees to adopt “complete” wage scales, including classifications and wages for all trades or crafts that may be employed on the agency’s construction projects for the duration of the three-month coverage of an adopted wage scale.

Bid-Splitting Prohibited

Beginning July 1, 2011, the amended Common Construction Wage Act also prohibits artificially dividing a construction project into multiple projects (“bid-splitting”) to avoid coverage of the Act and provides a penalty and two (2) year “debarment” for knowing violation of the bid-splitting prohibition.

What you Need to Know

Most state and local public work construction contracts awarded between July 1, 2011 and December 31, 2011 will be covered by the Common Construction Wage Act. Wage determinations should be made and wage scales adopted by the government agency awarding the construction contracts. However, the Common Construction Wage Act has generally been interpreted not to apply to routine maintenance or repair type construction work performed by in-house employees, so wage determinations would not be necessary for this type of work.

State and local government agencies planning to award contracts for public construction between July 1, 2011 and December 31, 2011 are encouraged to consider holding a wage determination hearing in early July 2011 and adopting a scale of wages which will apply to all contracts awarded within three (3) months following the date the scale was adopted, then holding a second wage determination hearing in late September 2011 and adopting a scale of wages which will apply to all contracts awarded through December 31, 2011. After December 31, 2011 only those construction projects exceeding the new \$250,000 threshold will need wage determinations.

The Indiana Department of Labor will assist anyone with questions about changes in the Indiana Common Construction Wage Act and how those changes may impact a particular state or local awarding agency or construction project. Additional information about the Indiana Common Construction Wage Act and about scheduling wage determination hearings is posted on the Indiana Department of Labor internet website. Questions may be directed to the Indiana Department of Labor by calling (317) 232-2655 or by electronic mail at ccw@dol.in.gov.