

3/2/84

8 MCAR 1

[REVISOR] JCF/BW AR0394

1 Department of Labor and Industry

2 Prevailing Wage Division

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4 Adopted Amendments to Rules Relating to the Establishment of

5 Prevailing Wages

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7 Rules as Adopted

8 8 MCAR S 1.8003 Prevailing wage determinations.

9 A. Highway and heavy construction. The department shall, at
10 least once each calendar year, determine and certify prevailing
11 wage rates applicable to state projects which are similar in
12 nature to highway and heavy construction projects.

13 B. Commercial type construction. The department shall, upon
14 the request of any state agency that is contemplating the
15 advertisement for bids on a state project which is similar in
16 nature to commercial construction projects, determine and
17 certify prevailing wage rates applicable to said state project
18 if a certification has not been made within the 6-month period
19 prior to the request.

20 C. Information required for certification request. Minnesota
21 Statutes, section 177.43, subdivision 4, provides that the
22 prevailing wage rates, prevailing hours of labor, and hourly
23 basic rates of pay for all trades and occupations required in
24 any contemplated project shall be ascertained before the state
25 asks for bids. A request to establish prevailing wage rates,
26 prevailing hours of labor, and hourly basic rates of pay for all
27 trades and occupations required in the contemplated project must
28 be sent to the department and shall include the:

29 1. Popular or descriptive name of project;

30 2. Project number;

31 3. Exact location of project by county and city, village,
32 or township;

33 4. Estimated costs of the total construction contracts to
34 be awarded;

35 5. Anticipated date for soliciting or advertising for
36 bids;

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- 1 6. Anticipated date for awarding of contracts;
- 2 7. Proposed date for commencement of work on project;
- 3 8. Estimated date of completion of project;
- 4 9. General description of the type of facility and
- 5 facilities which will constitute the completed contracts. For
- 6 example, two-story brick and concrete building about 200 feet by
- 7 400 feet with concrete floor, wood roof deck on wood laminated
- 8 beams, and includes plumbing, heating, and electrical work.
- 9 Outside work includes excavating, blacktopping, grading,
- 10 sidewalks, fencing, driveways, parking areas, and miscellaneous
- 11 areas;
- 12 10. Desired date of receipt of prevailing wage rate
- 13 schedule; and
- 14 11. Statement as to whether the federal government or any
- 15 of its agencies will furnish by loan or grant any part of the
- 16 funds used in this contract or prescribe a schedule of
- 17 prevailing wage rates.

18 The department must be notified about ensuing projects as
19 far in advance as possible. A request to determine or ascertain
20 prevailing wage rates, prevailing hours of labor, and hourly
21 basic rates of pay for all trades and occupations required on
22 any contemplated project must be made ~~between-50-and~~ not less
23 than 60 days before soliciting bids.

24 D. Residential type construction. Prevailing wage rates
25 applicable to state projects which are similar in nature to
26 residential construction projects will be made upon request of a
27 governmental official involved in the bidding process for a
28 state project who desires such rates for insertion in a specific
29 contract proposal.

30 E. Survey data; recent. Each wage survey shall be based
31 upon work performed in the 12 months preceding the date the
32 survey is commenced and the resulting wage determinations will
33 be certified following the close of the survey.

34 F. Survey procedure. Except as provided in G., all
35 prevailing wage determinations shall be based upon the survey
36 procedures contained in these rules.

1 G. Public hearing. The department shall, pursuant to
2 Minnesota Statutes, sections 177.43, subdivision 4, and 177.44,
3 subdivision 3, conduct public hearings when necessary to
4 determine county wage rate determinations. Such hearings shall
5 be conducted within the county for which wage rates are being
6 determined and shall be conducted as contested cases by a
7 hearing examiner from the Office of Administrative Hearings.

8 8 MCAR S 1.8004 Basis for each determination.

9 A. County and labor class basis. Individual prevailing wage
10 rates shall be made on a county by county basis and each
11 prevailing wage rate shall be based upon work performed solely
12 within the applicable class of labor.

13 B. Labor classes. For each county surveyed, the department
14 shall issue wage determinations for:

15 1. highway and heavy construction projects for all
16 classes of labor commonly or customarily used in those
17 construction projects; and

18 2. state projects other than highway and heavy
19 construction for all classes of labor expected to be used in the
20 contemplated project for which the prevailing wage rate is being
21 determined.

22 C. Projects to be surveyed, criteria. From information on
23 file and submitted by interested persons, the department shall
24 select projects of a character similar to the project for which
25 the prevailing wage rate is being determined. The selections
26 shall be made from projects on which construction work was done
27 in the 12 months preceding the survey and which are located in
28 the county in which the contemplated project is located, or, if
29 necessary, from adjacent counties.

30 1. If two or more projects of a character similar to the
31 project contemplated have been performed in the county in which
32 the project is to be located, and if this group of projects
33 provides wage rate data for the major classes of labor to be
34 used in the project for which the prevailing wage is being
35 determined, the wage determination for those classes of labor
36 shall be based solely upon that work.

1 2. Where classes of labor expected to be utilized in the
2 contemplated project for which the prevailing wage determination
3 is being made are not all represented in the projects in 1., but
4 work was performed in those classes of labor in two or more
5 projects in any county physically adjacent to the county being
6 surveyed, the department shall establish the wage determination
7 for those classes of labor based solely upon those adjacent
8 county projects.

9 3. Where no work was performed in a class of labor either
10 in the county being surveyed or in any adjacent Minnesota
11 county, no wage rate will be determined for that class of labor.

12 4. In determining a wage rate for a class of labor based
13 upon work performed in adjacent counties, all workers in a class
14 of labor in all adjacent counties shall be totaled and the wage
15 rates shall be based upon the wage rate paid to the largest
16 number as determined in accordance with 8 MCAR SS 1.8003-1.8007.

17 D. Frequency of determination. Following certification of
18 wage rates for a county, no wage rates for additional
19 classifications of labor shall be made for that county until
20 such time that a subsequent survey of the county is required
21 pursuant to Minnesota Statutes, section 177.43, subdivision 4 or
22 177.44, subdivision 4.

23 8 MCAR S 1.8006 Survey procedures.

24 A. Scope. The purpose of each county survey is to develop a
25 data base upon which to determine prevailing wage rates for
26 those classes of labor expected to be used on contemplated state
27 projects based upon wage rates paid to the same classes of labor
28 on similar projects in the area. In establishing the data, the
29 procedural steps in B.-H. shall be taken.

30 B. Wage reports. The department shall regularly request
31 from contractors, contractor organizations, labor organizations,
32 and any other interested person, on forms available from or
33 approved by the department, reports of construction wage rates
34 paid by contractors on various types of projects. The reports
35 must be kept on file by the department according to the county
36 in which the project for which the report is received was

1 performed. The reports must list the name and address of the
2 contractor, the name of the project, the location of the
3 project, a description of the project, a description of the work
4 performed on the project, the approximate dollar cost of the
5 project, the names of employees who worked on the project,
6 together with the class of labor for each employee, the wage
7 rate paid each employee on the project, and the hourly cost of
8 fringe benefits for health and welfare, pension, vacation, and
9 apprenticeship or training, and any other economic benefits paid
10 for each employee. The forms shall be signed and dated by the
11 organization or individual providing the information attesting
12 that the information provided is true and correct.

13 C. Union wage reports. The department shall also keep local
14 union wage and employment reports, on forms provided or approved
15 by the department. The reports must set forth the classes of
16 labor, trade, or occupation covered, the effective date of the
17 contract, wage and fringe benefits paid under the contract, the
18 duration of the contract, the dates of all adjustments to wages
19 and fringe benefits together with the amount of the adjustments
20 on each date, the geographic area where the contract is
21 effective, the number of members employed within the geographic
22 area covered by the contract, the type of projects covered by
23 the contract, and a list of all contractors or employer
24 associations signatory to the contract. The local union wage
25 reports are to be signed and dated by a representative from the
26 local union attesting that the information provided is true and
27 correct.

28 D. Mailing lists. The department shall also keep and
29 maintain a mailing list of governmental officials, district,
30 county, and city engineers, city clerks, administrators, and
31 zoning officials for each county. The department shall also
32 keep and maintain a mailing list of contractors, contractor
33 associations, labor organizations, and other individuals who
34 have requested to be on a mailing list to be notified when any
35 county survey is about to be taken.

36 E. Notification of survey. Upon initiation of a wage

1 survey, the department must notify the county engineer and all
2 city engineers, city clerks, administrators, and zoning
3 officials in the county to be surveyed, ~~and all~~. The notice
4 will request local officials to submit reports of construction
5 in the county in the preceding 12 months. The report shall
6 include the names of the contractors and their addresses. The
7 department must also notify all contractors, contractor
8 associations, labor organizations, and other individuals who
9 have requested to be notified when a survey for any county is
10 about to be taken. ~~The~~ That notice will request that interested
11 individuals submit reports on forms available from or approved
12 by the department concerning construction performed in the
13 county during the preceding 12 months. The notice shall state
14 that all reports of construction in the county must be returned
15 to the department no later than 33 days following the date upon
16 which the notice of the survey is mailed by the department.
17 Information not timely received by the department shall not be
18 used in establishing the prevailing wage rate for any class of
19 labor. ~~All reports of construction in a county which do not~~
20 ~~report the names of workers, classes of labor, wage rates and~~
21 ~~fringe benefits paid, description of the project, type of~~
22 ~~construction and location of the project must not be used in~~
23 ~~making wage determinations.~~ Any unsigned or incomplete forms
24 received prior to the final date for receipt of the forms shall
25 be returned to the individual, contractor, or labor
26 organization, to the extent the individual, contractor, or labor
27 organization can be identified, with a request that the form be
28 properly completed. The department may use incomplete reports
29 where the entity completing the form has provided all the
30 information it has. If that form is not received by the
31 department within 15 days from the date it is returned by mail
32 to the individual, contractor, or labor organization, it shall
33 be excluded from the survey. In no event shall information on
34 unsigned reports of construction in the county be utilized in
35 making wage determinations. All reports must be signed and
36 dated by the organization or individual making the report

1 attesting that the information provided is true and correct.

2 F. Reports, attestations. Reports of construction wage
3 rates and local union wage and employment reports shall specify
4 that the individual signing the report attests that the
5 information on the report is true and correct. The form shall
6 specify that willful falsification of any information on the
7 report may result in civil or criminal prosecution.

8 G. On-site visits. In addition to receiving and compiling
9 the information described in B.-F., the department shall make
10 on-site visits to the offices of contractors or governmental
11 representatives for the purposes of collecting project data and
12 for auditing payrolls when necessary for the determination of
13 prevailing wage rates.

14 H. County abstract. The number of workers in each class of
15 labor and their respective wage rates shall be determined and
16 reflected on a county abstract.

17 8 MCAR S 1.8007 Determining largest number of workers and
18 prevailing wage rate.

19 A. Policy. Each wage rate determination shall be based upon
20 the actual wage rates paid to the largest number of workers
21 within each labor classification reported in the survey.

22 B. Procedure. For purposes of determining the largest
23 number of workers, each worker within a class of labor and his
24 total hourly rate paid shall be tabulated.

25 1. Total hourly rate includes the hourly rate plus the
26 hourly contribution for all wage and fringe benefits.

27 2. The largest number of workers with identical rates of
28 pay within each classification shall determine the specific
29 prevailing wage rate.

30 3. When determining the prevailing wage rate and there is
31 an equal number of workers (which represent the greatest number
32 of workers) with differing hourly wage rates, the prevailing
33 wage rate shall be the highest wage rate paid to those workers.

34 Example:

35 four workers at \$7 per hour

36 four workers at \$8 per hour

1 two workers at \$8.50 per hour

2 The prevailing wage rate will be determined as \$8 per hour.

3 4. Where a worker performs work on more than one project
4 within the county, he shall be counted only once in the class of
5 labor and at the wage rate paid on the most recent project
6 within the time period of the survey.

7 C. Collectively bargained rate. If the prevailing wage rate
8 determined for any given class of labor represents a
9 collectively bargained rate, then the comparable current
10 collectively bargained rate for the class of labor in the county
11 where the project covered by the prevailing wage determination
12 is located shall be the prevailing wage rate.

13 D. Noncollectively bargained rate. If the prevailing wage
14 rate determined represents a rate other than a collectively
15 bargained rate for any given class of labor, the rate so
16 determined shall be the prevailing wage rate.

17 E. Change in rate due to contractual changes. If the
18 prevailing wage rate for any given class of labor represents a
19 collectively bargained rate, and the collectively bargained rate
20 for that class of labor will change during the 12 months
21 immediately following the date upon which the wage rate is
22 determined according to the terms of the collective bargaining
23 contract by which the rate is established, the department shall
24 certify that the rate for that class of labor shall also change
25 accordingly on the effective date of the change pursuant to the
26 collective bargaining contract.