



October 11, 2011

Dale Inslee
Director of Asset Management
Northeast Oregon Housing Authority
P.O. Box 3357
La Grande, OR 97850

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Project: Richland School Apartments
Requested by: Northeast Oregon Housing Authority

Dear Mr. Inslee:

On September 26, 2011, you submitted a request on behalf of Northeast Oregon Housing Authority asking if the Prevailing Wage Rate law would apply to the Richland School Apartments project ("project"). Sufficient information to make a determination was received on October 7, 2011, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT:

1. Northeast Oregon Housing Authority plans to purchase and convert abandoned public school class rooms into ten (10) low-income senior/disabled apartments. The address of the project site is 42008 Moody Road in Richland, Oregon. The abandoned public school building also includes a cafeteria, gymnasium and public library.
2. Northeast Oregon Housing Authority is a public agency.
3. Northeast Oregon Housing Authority has secured the funding for the construction, reconstruction, major renovation and/or painting of the residential portion of the complex and grounds from Oregon Housing and Community Services as follows:

PORTLAND
800 NE Oregon St. Suite 1045
Portland, OR 97232-2180
(971) 673-0761
Fax (971) 673-0762

EUGENE
1400 Executive Parkway, Suite 200
Eugene, OR 97401-7103
(541) 686-7623
FAX (541) 686-7980

BEND
Apprenticeship and Training
Worksource Bend
1645 NE Forbes Rd, Ste 106
Bend, OR 97701-4990
(541) 322-2435
FAX (541) 389-8265

MEDFORD
Apprenticeship and Training
119 N Oakdale Ave.
Medford, OR 97501-2629
(541) 776-6201
FAX (541) 776-6284

SALEM
3865 Wolverine St. NE; E-1
Salem, OR 97305-1268
(503) 378-3292
FAX (503) 373-7636

Oregon Relay TTY:711

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PENDLETON
Civil Rights
1327 SE 3rd St.
Pendleton, OR 97801-4101
(541) 276-7884
FAX (541) 276-5767



- a. Funds of a Public Agency:
 - i. \$500,000 – Housing Development Project Grant (HDGP)
 - ii. \$1,012,371 – Home Investment Partnerships Program Grant (HOME)
 - b. Other Funds:
 - i. \$195,000 – Oregon Affordable Housing Tax Credits
4. Pine Eagle Economic Development Corp. (PEEDC), a Domestic Nonprofit Corporation, has secured private funding in the amount of \$150,000 to renovate the cafeteria portion of the project. The cafeteria portion is in the same building as the proposed apartments. The cafeteria will receive new equipment in the kitchen, new paint, and some landscaping. No structural changes are planned. PEEDC plans to use its own contracts and contractors, but cannot start work until Northeast Oregon Housing Authority completes purchase of the site. Tenants of the apartments will have free use of the cafeteria, but the cafeteria will also be available to community organizations for their local events.

CONCLUSIONS OF LAW:

1. The definition of “public works” under ORS 279C.800(6)(a)(A) includes “roads, highways, buildings, structures and improvements of all types, the construction, reconstruction, major renovation or painting of which is carried on or contracted for by any public agency to serve the public interest.” The Richland School Apartments project meets this definition of public works because it is a project for the construction, reconstruction, major renovation and/or painting of a building, structure or improvement that is being carried on or contracted for by Northeast Oregon Housing Authority, a public agency.
2. The project here is a public works of the type described in ORS 279C.800(6)(a)(A). Therefore, the prohibition against dividing projects into more than one contract applies and the residential and commercial spaces will be considered part of the same project. ORS 279C.827(1) and OAR 839-025-0310(1).
3. ORS 279C.800 to 279C.870 do not apply to projects for which the contract price does not exceed \$50,000 or to projects for which no funds of a public agency are used. ORS 279C.810(2)(a), (b). Northeast Oregon Housing Authority has secured \$1,707,371 in funding for the residential portion of the project, \$1,512,371 of which is funds of a public agency. Additionally, PEEDC has secured \$150,000 in private funds for the cafeteria portion of the project. The contract price for the project will exceed \$50,000 and the project will use funds of a public agency. Therefore, neither of these exemptions will apply.

4. ORS 279C.800 to 279C.870 do not apply to projects for residential construction that are privately owned and that predominately provide affordable housing. ORS 279C.810(2)(d). Northeast Oregon Housing Authority is a public agency so the Richland School Apartments project is not privately owned. Therefore, this exemption will not apply.

DETERMINATION:

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will apply to the proposed construction, reconstruction, major renovation and/or painting of the Richland School Apartments project.

This determination is based on the agency's file as of the date of this determination. The commissioner may make a different determination if any of the project information is incorrect, or if the project or project documents are modified or supplemented after the date of this determination.

REQUEST FOR RECONSIDERATION:

After the commissioner issues a determination, the requestor or any public agency served with a copy of the determination may request that the commissioner reconsider the determination. A request for reconsideration must be submitted in writing to the Prevailing Wage Rate Unit, must include the reason or reasons for the request and any documents in support of the request, and must be received within 15 calendar days of the date the determination was mailed. A request for reconsideration does not toll the time period for requesting a contested case hearing on the determination.

RIGHT TO A HEARING:

The requestor and any person adversely affected or aggrieved by this determination are entitled to a hearing as provided by the Administrative Procedures Act (ORS 183.413 to 183.470) and ORS 279C.817. If you want a hearing, the Bureau of Labor and Industries, Wage and Hour Division, must receive your written request for hearing within 21 days from the date this notice was mailed. Hearing requests should be addressed and delivered to:

Administrator
Wage and Hour Division
Bureau of Labor and Industries
800 NE Oregon St., Suite 1045
Portland, OR 97232

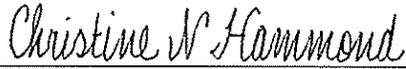
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a government agency, corporation, partnership, or unincorporated association, you must be represented by either legal counsel or an authorized representative. If you request a hearing, you will receive information on Contested Case Rights and Procedures before the hearing. After the hearing, an order confirming, modifying or reversing this determination will be issued. This determination shall remain in effect until the final order is issued.

If you request a hearing, but fail to appear at any scheduled hearing, you will have waived your right to hearing, and the commissioner may issue a final order by default. If the commissioner issues a final order by default, the agency file on this matter shall serve as the record for purposes of proving a prima facie case. You are not entitled to judicial review of this determination order unless you have made a timely request for a hearing.

Date: October 11, 2011

BRAD AVAKIAN, Commissioner
Bureau of Labor and Industries

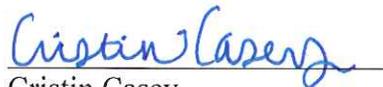

CHRISTINE N. HAMMOND,
Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On October 11, 2011, I mailed the Prevailing Wage Rate Determination for the Regional Health and Education Center to the requestor, as follows:

Dale Inslee
Director of Asset Management
Northeast Oregon Housing Authority
P.O. Box 3357
La Grande, OR 97850

Certified Mail – Return Receipt Requested
Article #: 7009 2820 0001 4829 2244



Cristin Casey
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries