



December 10, 2013

Jennifer Jolley, Procurement and Contracts Specialist
Oregon Department of Revenue
955 Center Street NE
Salem, OR 97301

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Project: Renovations to Department of Revenue Building
Requested by: Oregon Department of Revenue

Dear Ms. Jolley:

On September 30, 2013, you submitted a request on behalf of Oregon Department of Revenue, asking if the Prevailing Wage Rate law would apply to a contract to renovate a portion of the building Oregon Department of Revenue currently occupies in Salem, Oregon. On the same floor in this building, other renovation work was recently done and you asked if the new contract to be awarded would be considered part of the same project as the earlier work done. Specific dates related to the work were requested, but the public agency was unable to provide them; however, sufficient information to make a determination was received on December 9, 2013, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. Over the next several years, Oregon Department of Revenue (“DOR”) will be replacing its core information technology systems, a project referred to as Core System Replacement (“CSR”). This project has necessitated the renovation of building space occupied by DOR.
2. DOR currently leases most of the space within a building owned by Department of Administrative Services (“DAS”) located at 955 Center Street NE in Salem, Oregon. The building is referred to as the Department of Revenue Building.
3. Oregon Department of Transportation (“ODOT”) leased space on the 4th floor of this building, but sometime prior to the summer of 2013, ODOT vacated the space. For purposes of this determination, the space is referred to as Space 1.

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4. DOR decided to lease Space 1 from DAS and planned to move the DOR staff working on the CSR project into the space. To accommodate DOR's move into Space 1, DAS contracted for tenant improvements of the space, including replacing the carpeting, repainting the walls, and installing new cabling. DAS paid for this work, but the cost of the work is not known. The only information regarding the timing of the work is that it was done over the summer months of 2013. The work was not treated as a public works project subject to the prevailing wage rate laws.
5. DOR moved into Space 1 when the reconstruction work was complete, but the date of the move is unknown.
6. Through a DAS price agreement, DOR contracted with Graebel, a moving company, to install systems furniture in Space 1. The date of this work is unknown, but as of November 15, 2013, it was described as being done "recently, within the last 2-3 months." The cost of this work was approximately \$130,000, and was paid for by DOR. The work was not treated as a public works project subject to the prevailing wage rate laws.
7. Sometime in possibly July, 2013, DOR decided to remodel a space it was already leasing on the 4th floor of the Department of Revenue Building. The date is unknown, but as of November 15, 2013, the decision was described as being made "about 4 months ago." The remodeled space will serve the CSR staff and the CSR project. For purposes of this determination, the space is referred to as Space 2.
8. The planned reconstruction work to be done in Space 2 includes dividing the large open space into a conference room and an office. The cost is estimated to be \$22,000. DOR has contracted with TomCor Construction to perform this work, and as of November 15, 2013, the work was described as "currently being done."

CONCLUSIONS OF LAW

1. The work done on the 4th floor of the DOR building includes reconstruction, major renovation and painting, and was carried on and contracted for by a public agency to serve the public interest. Therefore, this project meets the definition of "public works" under ORS 279C.800(6)(a)(A).
2. ORS 279C.827(1)(c) and OAR 839-025-0310 list factors to consider when making a determination whether multiple contracts should be considered a single project. The factors include the physical separation of the work, the timing of the work, what the anticipated outcome is of the work, and whether the combined improvements combine to form a single logical entity with an overall purpose or function.

In the case of the work to remodel portions of the Department of Revenue Building, the work was all done on the same floor of one single building, and the anticipated outcome was to renovate the space for DOR's CSR staff use. While no specific dates were provided regarding the work that was done, it is clear that the work was done in the same general time period. The improvements combine to form a single logical entity with an overall purpose because they are being done to renovate the space for DOR's CSR staff. Therefore, all the work to remodel the 4th floor of the Department of Revenue Building should be considered one single project.

3. Public funds were used on the project, and the total project cost exceeded \$50,000. Therefore, no exemptions from the prevailing wage rate laws apply to this project. ORS 279C.810(2).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, apply to the project to renovate the Department of Revenue Building.

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 A 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, Oregon 97232

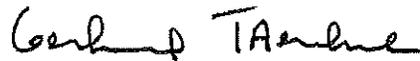
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: December 10, 2013

Brad Avakian, Commissioner
Bureau of Labor and Industries



Gerhard Taeubel, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On December 10, 2013, I mailed the Prevailing Wage Rate Determination for the project to renovate the Department of Revenue Building to the requestor/public agency associated with this project, as follows:

Jennifer Jolley, Procurement and Contracts Specialist
Oregon Department of Revenue
955 Center Street NE
Salem, OR 97301



Susan Wooley
PWR Technical Assistance Coordinator
Wage and Hour Division
Bureau of Labor and Industries