

Dena Lund, CPPB
Purchasing, Printing and Warehouse Services
Clackamas Community College
19600 S Molalla Ave
Oregon City OR 97045

Re: *Determination Whether Project is Subject to Prevailing Wage Rate*
Project: Cisco Unified Communications System
Requested by: Clackamas Community College

Dear Ms. Lund:

On October 30, 2007, you submitted a request on behalf of Clackamas Community College ("CCC") asking whether a proposed project is subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by November 8, 2007, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. CCC has issued a Request for Proposals ("RFP") in order to solicit proposals from contractors for the furnishing, installation, and configuring of a Cisco Unified Communications System at the college's three campuses. CCC intends to enter into a contract for such work.
2. The work to be performed consists of the installation of such communications equipment as switches and routers in cabinets and the programming of those devices. The work does not require any attachments or alterations to buildings or structures, including but not limited to the installation of wiring or cables.
3. At the Oregon City and Wilsonville campuses, the work will be performed in existing buildings. However, at the Harmony Campus, the work will be performed in connection with the construction of a new facility.

CONCLUSIONS OF LAW

1. The construction of the new facility at the Harmony Campus is a public works project. The installation and configuring of the Cisco Unified Communications System in the existing buildings at the other two campuses does not meet the definition of a public works under ORS 279C.800(6)(a)(A), (B), or (C).

2. Pursuant to ORS 279C.840(1), workers upon a public works project must be paid no less than the prevailing rate of wage for the type of work performed. Under OAR 839-025-0004(31), a “worker” is defined as “a person employed on a public works project and whose duties are manual or physical in nature.” Furthermore, OAR 839-025-0035(3) requires the payment of the applicable rate of wage to persons “employed on a public works project and who are spending more than 20% of their time during any workweek in performing duties which are manual or physical in nature as opposed to mental or managerial in nature.”
3. The work of installing the Cisco Unified Communications System at the Harmony Campus will require the payment of the applicable prevailing rate of wage to those workers who spend more than 20% of their time during the workweek engaged in duties that are manual or physical in nature as opposed to mental or managerial in nature.

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, does apply to the installation of the Cisco Unified Communications System at the Harmony Campus.

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.

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 HB 2140 Section 43 (Enrolled) OR Laws 2007. 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.

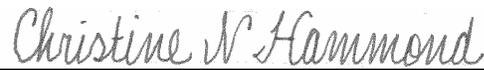
If you request a hearing, you will be notified of the date, time and place of the hearing. You have the right to be represented by legal counsel at a hearing. However, if you are a

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: November 20, 2007

Dan Gardner, Commissioner
Bureau of Labor and Industries

A handwritten signature in cursive script that reads "Christine N. Hammond". The signature is written in dark ink and is positioned above a horizontal line.

Christine N. Hammond, Administrator
Wage and Hour Division
Bureau of Labor and Industries

Certificate of Service

On November 20, 2007, I mailed, by certified mail, the Prevailing Wage Rate Determination for Cisco Unified Communications System Project to the requestor and any public agencies identified by requestor as being associated with this project, as follows:

Dena Lund, CPPB
Purchasing, Printing and Warehouse Services
Clackamas Community College
19600 S Molalla Ave
Oregon City OR 97045

Gerhard Taeubel, Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries