



July 9, 2014

Oregon Employment Department
Attn: Lindsy Leahy
875 Union Street NE, Room 201
Salem, OR 97301

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Laws*
Requested by: Oregon Employment Department

Dear Ms. Leahy:

On June 30, 2014, you submitted a request asking if the Prevailing Wage Rate laws would apply to proposed relocation projects known as the "Consolidation project", the "Eugene project", and the "BPC project". Sufficient information to make a determination was received on June 30, 2014, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. The Oregon Employment Department (OED) plans to relocate 243 workers from their current offices in Eugene, Milwaukie, and Tualatin to office space in Beaverton, Eugene, and Salem.
2. The office space in Beaverton ("the Consolidation project") is in a privately owned building leased by OED. OED plans to remodel the space to accommodate 232 workers who are being relocated there from Eugene, Milwaukie, and Tualatin. The project, which includes demolition, reconstruction, and furniture reconfiguration, will take place within the existing footprint of the building. The demolition and reconstruction portion of the project will be contracted for by the owner of the building, while the furniture reconfiguration portion will be contracted for by OED. OED will solicit bids for the furniture reconfiguration on the Consolidation project separately from the Eugene project and the BPC project. The estimated cost of the Consolidation project is \$950,000 - \$600,000 of which will be funded by a tenant improvement allowance negotiated as part of the lease, and \$350,000 which will be funded by the OED Benefits section. Work on the Consolidation project will be completed in September/October 2014.

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Eugene, OR 97401-2158
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3. OED plans to relocate five workers who are currently working in Eugene at a leased office space to another office in Eugene ("the Eugene project") that is owned by OED. This will require OED to contract for the construction of three new cubicles at an estimated cost of \$2,900, which will be funded by OED's Unemployment Insurance Tax section. OED will solicit bids for the Eugene project separately from the Consolidation project and the BPC project. Work on the Eugene project will be completed in July 2014.
4. OED plans to relocate one worker from Eugene and five workers from Milwaukie to OED's central office location in Salem, a building owned by the Department of Administrative Services ("the BPC project"). No construction will be necessary. The estimated cost of packing and moving is \$1,500, to be funded by OED's Unemployment Insurance Benefits section. OED will solicit bids for the BPC project separately from the Consolidation project and the Eugene project. Work on the BPC project will be completed in August 2014.

CONCLUSIONS OF LAW

1. Consideration of the factors set forth in ORS 279C.827(1)(c), including the physical separation of the project structures, the timing of the work, the manner in which OED will administer and implement the projects, and the overall purpose or function of the projects, substantiates that OED has not divided a public works project into more than one project in order to avoid compliance with ORS 279C.800 to ORS 279C.870.
2. The Consolidation project includes reconstruction and major renovation within the footprint of a privately owned building that will be leased by the Oregon Employment Department. Pursuant to OAR 839-025-0004(23) "reconstruction or renovation of privately owned property that is leased by a public agency" includes improvements of all types within the framework or footprint of an existing building or structure. Pursuant to ORS 279C.800(6)(b)(A), "public works" does not include the reconstruction or renovation of privately owned property that a public agency leases.
3. The Eugene project includes the major renovation of a publicly owned building that will be carried on or contracted for by a public agency and therefore meets the definition of "public works" under ORS 279C.800(6)(a)(A). Pursuant to ORS 279C.810(2)(a), the provisions of ORS 279C.800 to ORS 279C.870 will not apply to this project, because the project cost does not exceed \$50,000.

4. The BPC project does not include construction, reconstruction, major renovation, or painting and therefore does not meet the definition of "public works" under ORS 279C.800(6)(a)(A).

DETERMINATION

Based on the foregoing, the Prevailing Wage Rate laws, ORS 279C.800 to ORS 279C.870, and OAR Chapter 839, Division 025, will not apply to the proposed construction, reconstruction, major renovation and/or painting of the Consolidation project, the Eugene project, or the BPC 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 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

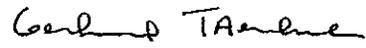
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: July 9, 2014

Brad Avakian, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On July 9, 2014, I mailed the Prevailing Wage Rate Determination for the Oregon Employment Department's proposed relocation to the requestor, as follows:

Oregon Employment Department
Attn: Lindsy Leahy
875 Union Street NE, Room 201
Salem, OR 97301

Hannah Wood

Hannah Wood
Compliance Specialist
Wage and Hour Division
Bureau of Labor and Industries