

July 23, 2009

Rick Silbaugh, Public Safety Manager
Deschutes County 9-1-1 Service District
63333 Hwy. 20
Bend, OR 97701

Re: *Determination Whether Project is Subject to Prevailing Wage Rate Law*
Contract: Replacement of Radio Dispatch Console System
Requested by: Deschutes County 9-1-1 Service District

Dear Mr. Silbaugh:

On June 22, 2009, you submitted a request on behalf of the Deschutes County 9-1-1 Service District ("District") asking whether a contract for the replacement of a radio dispatch console system will be subject to the Prevailing Wage Rate law. Sufficient information to make a determination was received by July 22, 2009, and therefore, the commissioner issues the following determination:

FINDINGS OF FACT

1. In 2010, Deschutes County plans to construct a new County building that will be occupied by Oregon State Police and the District. The cost of this project will exceed \$50,000. The project will be treated as a public works project subject to the prevailing wage rate law. The District plans to relocate its operations to this new building in July 2010, and as part of the relocation, the District plans to award a contract to replace the radio dispatch console system they currently use.
2. The work to replace the radio dispatch console system will consist of the installation of new equipment including switches, routers and a server, and network cabling to connect this equipment to radio circuits that Qwest will have already installed in the new building. The switches, routers and server will be mounted to free-standing racks. The work to replace the radio dispatch console system will not require any attachments or alterations to the new building.

CONCLUSIONS OF LAW

1. The construction of the new building to be contracted by Deschutes County will be a public works project under ORS 279C.800(6)(a)(A). The contract to

replace the radio dispatch console system in this new building will be part of this public works project.

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 (including those workers who use tools or who are performing the work of a trade), as distinguished from mental, professional or managerial.” Furthermore, pursuant to OAR 839-025-0035(4), a “worker” also includes 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 to replace the radio dispatch console system in the new County building will require the payment of the applicable prevailing rate of wage to those persons who are “workers” on the project, including persons 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, will apply to the contract to replace the radio dispatch console system, as this contract is part of a larger public works project. “Workers” on this project must be paid the appropriate prevailing rate of wage.

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

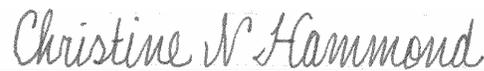
If a written request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived.

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: July 23, 2009

Dan Gardner, Commissioner
Bureau of Labor and Industries



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

Certificate of Service

On July 23, 2009, I mailed, by certified mail, the Prevailing Wage Rate Determination for the Replacement of Radio Dispatch Console System contract to the requestor and other public agency personnel identified by requestor as being associated with this project, as follows:

Rick Silbaugh, Public Safety Manager
Deschutes County 9-1-1 Service District
63333 Hwy. 20
Bend, OR 97701

Susan Ross, Property and Facilities Director
Deschutes County 9-1-1 Service District
63333 Hwy. 20
Bend, OR 97701

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