Informational Meeting
Determination of Prevailing Wage Rate

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Topics

- History and Purpose of the Prevailing Wage Rate (PWR) Law and Comparisons to the federal Davis Bacon Law
- How the Prevailing Wage Rate is Determined and the Consideration of Collective Bargaining Agreements
- 14 Regions and History of Locality
- Conclusions and Questions

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History and Purpose of the Prevailing Wage Rate Law

Oregon's Prevailing Wage Rate (PWR) law was first passed in 1959; based on the 1931 federal Davis Bacon Act

The Davis Bacon Act (DBA) was created to require that federal contractors and subcontractors pay the prevailing wage rate on federally funded and federally assisted construction projects. The fundamental purpose was to protect local workers from outside contractors who may underbid the local community wage and benefit standards when competing for federal projects

The DBA inspired many states, like Oregon, to enact state-level "little Davis Bacon Acts" that require prevailing wages on projects funded by state or local government

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Oregon’s Prevailing Wage Rate Law

From 1959 to 1995 many updates and refinements were made to the Oregon PWR law; however, following the 1994 defeat of an effort to repeal it, substantial changes were made in 1995

The 1995 changes included a declaration of ***purpose of the laws***, in ORS 279C.805

1. To ensure that contractors compete on the ability to perform work competently and efficiently while maintaining community-established compensation standards
2. To recognize that local participation in publically financed construction and family wage income benefits are essential to the protection of community standards
3. To encourage training and education of workers to industry skill standards
4. To encourage employers to use funds allocated for employee fringe benefits for the actual purchase of those benefits

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Oregon's Prevailing Wage Rate Law

Other significant changes in 1995 included:

- The addition of a prevailing wage fee payable by contractors who contract directly with a public agency. Fee is 1/10th of 1% of contract amount
  - Fees used to pay the costs of: State-conducted prevailing wage rate surveys, educational programs, and investigation and enforcement of the PWR laws
- A prohibition against dividing public works projects to avoid compliance with the PWR laws
- An increase in the threshold for coverage from $10,000 to $25,000

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Oregon's Prevailing Wage Rate Law

- **Changes in 2005:**
  - Increase threshold for coverage to $50,000 (the federal DBA threshold remains at $2,000)
  - Projects subject to federal PWR law can also be subject to state PWR law; on such projects workers must be paid the higher of the two rates
  - Required $30,000 public works bonds used exclusively for unpaid wages determined by BOLI

- **Changes in 2007:**
  - The definition of "public works" was modified to include some public/ private projects ($750,000 or more funds of a public agency)
  - The definition of "funds of a public agency" was amended and added some exclusions

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How the PWR is Determined

- After PWR surveys have been submitted by contractors to the Employment Department they compile the data and present it to the Labor Commissioner. This data informs the determinations

Generally:

- If 50% or more of hours reported for an occupation in a region are union hours, the union rate prevails
- If less than 50% of hours reported for an occupation in a region are union hours, a statewide average rate is applied

How the PWR is Determined

- The Labor Commissioner may consider additional information such as collective bargaining agreements, the submission of data that exceeds the limitations of the survey process, other independent wage surveys, and the prevailing wage rates determined by appropriate federal agencies

- PWR are published twice a year January (new rates) and July (updates to rates) Amendments are also received and published twice a year (April and October)

- Generally, the rates in effect at the time the agency advertises a project for bid are the rates to be paid throughout the project.

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14 Regions and History of “Locality”

- In 1959 when the PWR law was enacted the law stated that “the prevailing rate of wage means the rate of hourly wage and overtime paid in the locality to the majority of workmen in the same trade or occupation…” It continued with “…if there is not a majority……in the locality…”Locality means” the largest city in the county or counties in which the public work is to be performed”
- *Meaning that the rates were based on the rates found in the largest city in a given county*

- In 1977 state law was amended and replaced the definition of locality with the 14 regions that are still in practice

- In 1981 the definition of locality was amended to remove any reference to the largest city

- In 1996 the basis of the Commissioner’s determinations shifted from a federal county-based survey to the construction survey conducted by the Oregon Employment Department

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Conclusion and Questions

- Purpose of Oregon's PWR Laws and Davis Bacon
- The laws were fundamentally created to:
  - Ensure quality work on public works projects and investments
  - Discourage the exploitation of workers and the deterioration of community standards by safeguarding compensation standards
  - Encourage competition based on the ability of contractors to compose a highly skilled and efficient workforce
- How are the Rates Determined?
  - Largely through the implementation of a contractor survey conducted by the Oregon Employment Department. The Labor Commissioner may also take into consideration other significant factors
- What is the History of the 14 Regions and the Definition of "Locality"

  Largely based on federal Davis Bacon and proximity to largest city rates

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Questions and Contact

QUESTIONS

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