

## **ANNE ARUNDEL COUNTY, MARYLAND**

### **Prevailing Wage and Local Hiring Contract Requirements and Policies**

The Contractor and all Subcontractors must comply with the Prevailing Wage Law and Local Hiring Requirements contained in Chapters 8-2-115 and 8-2-116 of the Anne Arundel County Code and Anne Arundel County Bill 72-21, as amended. Prevailing wage means the wage rate paid by employers that is determined by a governmental authority, based upon a particular geographic area, for a given class of labor and type of project. The County will use the State of Maryland Commissioner of Labor and Industry for state funded construction contracts for Wage Determinations in the County at the time of award of the capital improvement contract, these rates include the basic hourly rate and fringe benefits. Apprentices must be paid at least the rate that the state's apprenticeship and training council sets for an apprentice in the trade involved, based on a percentage of the prevailing wage rate in that trade. Any Contractor that is subject to the prevailing wage or local hiring law will be required to agree to the below provision:

For the purposes of these requirements, an employee means an apprentice, laborer or mechanic employed by a contractor on a capital improvement project, including any subcontractors, with a value of over \$250,000, or a capital project with a value over \$5,000,000.

Capital Improvement Project does not include blanket order or open end agreements, or capital improvement projects subject to a federal or state prevailing wage law, awarded without competition; with another governmental entity; to the extent the contractor is precluded from compliance by the terms of any federal or state law, contract or grant; entered into pursuant to Anne Arundel County Code Section 8-1-107(B); entered into as a joint or cooperative purchase or entered into as an emergency purchase.

The purpose of a prevailing wage is to ensure that contractors institute local hiring practices for capital improvement contracts under certain circumstances as required by law, and that the Contractor's employees who work on capital improvement contracts are paid the going rate for their services. The prevailing wage rates are established by the State of Maryland and apply to all of the Contractor's employees and any and all Subcontractors. The Contractor and all Subcontractors must comply with all of the requirements of the Prevailing Wage Law including, but not limited to, the following:

1. Pay employees the prescribed rate as annually established by the State of Maryland Commissioner of Labor and Industry; the prevailing wage rates in effect on the date a solicitation is issued will apply throughout the term of a contract resulting from that solicitation. Prevailing wage means the wage rate paid by employers that is determined by a governmental authority, based upon a particular geographic area, for a given class of labor and type of project. This rate means the basic hourly rate and fringe benefit rate established annually by the State of Maryland Commissioner of Labor and Industry for state funded construction contracts in the County at the time of award of the capital improvement contract. Apprentices must be paid at least the rate that the state's apprenticeship and training council sets for an apprentice in the trade involved, based on a percentage of the prevailing wage rate in that trade. Wage deductions must be fair and reasonable and may only be made when (1) required by law; (2) authorized in a written agreement between the employee and contractor signed at the beginning of employment that concern food, sleeping quarters, or similar items; and are submitted by the contractor to the Director of the County's Prevailing Wage Program; or are required or allowed by a collective bargaining agreement between a bonafide labor organization and a contractor. Contractors may NOT split or

subdivide a capital improvement contract or a subcontract awarded pursuant to the capital improvement contract, pay an employee through a third party, treat the employee as a subcontractor or independent contractor to avoid any requirement of the County's prevailing wage or local hiring laws; or employ an individual classified as a helper or trainee to perform direct and measurable work under a capital improvement contract.

2. Pay employees at a rate equal to or more than the regular prevailing wage rate for overtime for the type of work performed for each hour that the employee performs direct and measurable work (I) more than eight hours in any single calendar day; (II) more than 40 hours in a work week; or (III) on a Sunday or a legal holiday.;

3. Classify employees in their proper work classification in conformance with the schedule established by the State of Maryland Commissioner of Labor and Industry;

4. The Contractor may only deduct wages fairly and reasonably when (1) required by law; (2) authorized in a written agreement between the employee and contractor signed at the beginning of employment that concern food, sleeping quarters, or similar items; and are submitted by the contractor to the Director of the County's Prevailing Wage Program; or are required or allowed by a collective bargaining agreement between a bonafide labor organization and a contractor.

5. Electronically submit payroll records through [www.lcptracker.net](http://www.lcptracker.net), within 14 days after the end of each payroll period, to verify that Prevailing Wage rates have been paid to employees. A contractor must submit a certified complete copy of its payroll records for a capital improvement contract covered by the County's Prevailing Wage or local hiring laws within 14 days after the end of each payroll period.

6. Contractors must retain records for a period of five years after the work is completed and must permit the Director of the Department that administers the Prevailing Wage program, or their designee, to inspect the payroll records at a reasonable time and as often as necessary.

7. The Contractor's payroll records shall contain a statement signed by the contractor attesting and certifying that the payroll records are complete and correct; the wage rates are not less than required by the County Code and Purchasing Regulations; and the rate of pay and classification for each employee accurately reflects the work the employee(s) performed.

8. All payroll records shall include the name, address, telephone number and email of the contractor; the name and location of the job; and each employee's name, current address unless previously reported; current address unless previously reported; specific work classification; daily basic time and overtime hours; total basis time and overtime hours for the payroll period; rate of pay; fringe benefits by type and amount; and gross wages.

9. The County may in their sole discretion perform random or regular audits and investigate any complaint of a violation of the County's prevailing wage and local hiring laws and requirements. If a Contractor or any Subcontractors are late in submitting copies of any payroll records required to be submitted under the Prevailing Wage Law, the County may deem Contractor's invoice(s) submitted to the County for payment unacceptable until the Contractor and Subcontractors provide the required records; and, the County may postpone processing payments otherwise due under the Contract or under an agreement to finance the Contract;

10. A Contractor must make best efforts to fill at least 51% of new jobs required to complete the capital improvement contract or capital project with Anne Arundel County residents. Further, the Contractor will

submit quarterly reports relating to local hiring with respect to a capital project or capital improvement project meeting the necessary requirements that lists the number of new hires needed for the contract during the reporting period, the number of County residents hired during the reporting period, the number of all employees hired during the reporting period. The local hiring reporting will include a description of the best efforts made to fill open positions with County residents. New hires reported must list their name, the last four digits of their social security number, the job title, the hire date, the address and the referral source.

11. Any and all disputes will be handled as set forth in the County's prevailing wage and local hiring law. The Contractor agrees to this method of resolving disputes and waives any right of appeal or claims beyond that set forth in the prevailing wage and local hiring law as a condition of award;

12. In the event the County determines that a provision of the Prevailing Wage Law has been violated, the County may withhold payment to the Contractor in an amount sufficient to pay each employee of the Contractor or any Subcontractors the full amount of wages due under the Prevailing Wage Law, and an amount sufficient to satisfy a liability of a Contractor or any Subcontractors for liquidated damages as provided under the Prevailing Wage Law, pending a final decision on the violation by the County;. Contractor may appeal a written decision of the Director of Central Services, that the Contractor violated a provision of the Prevailing Wage Law to the Purchasing Agent, within ten (10) days after receiving a copy of the decision. If they do not appeal, the decision of the Director or their designee is final. Within a reasonable time of receipt of a timely appeal, the purchasing agent may investigate, request written testimony, or conduct a hearing as they deem necessary for the review of appeal. The parties agree that the decision of the Purchasing Agent is final and binding and not subject to appeal. The Contractor will cooperate and provide testimony upon request. A Contractor who is found to have violated the provisions of the prevailing wage or local hiring law intentionally, may not be awarded a county contract or work on any county contract for a period of one year from the date of the final decision.

13. If a party is found late in submitting copies of payroll records deemed required under the County's prevailing wage and local hiring laws and regulations, the County may deem the invoices deficient until the Contractor provides the required records and may postpone processing payments until the Contractor provides the required records and may postpone processing payments under the contract or agreement with the County.

14. Contractor and all Subcontractors must not discharge, or otherwise retaliate against, an employee for asserting any right under the Prevailing Wage Law or for filing a complaint of a violation;

15. An aggrieved employee is a third-party beneficiary of this Contract and the employee may by civil action recover the difference between the prevailing wage for the type of work performed and the amount actually received, with interest and a reasonable attorney's fee in the amount of three times the wages owed to a specific employee or apprentice, this right is incorporated into the Contract;

16. Each Contract subject to the Prevailing Wage Law may specify the payment of liquidated damages to the County by the Contractor and any Subcontractors for any noncompliance with the Prevailing Wage Law. Liquidated damages are:

- 1) \$10 for each calendar day that the payroll records are late; \$10 per day for each day that an employee is misclassified; and \$10 per violation of the requirement to post the prevailing wage rates at the work site.
- 2) Liquidated damages as set forth in Section 15 for the benefit of the third party employee; and

- 3) Liquidated damages as set forth for delays in performance or work under the Contract in B1-2 are separate from prevailing wage and/or local hiring.

These liquidated damages are solely related to prevailing wage and local hiring compliance and do not negate any other remedies available or set forth in the Contract, including delay damages or actual damages. These remedies are separate, in addition to, and not in lieu of any remedies available and set forth in the Contract for other breaches or defaults under the Contract.

17. Where the initial Contract Sum is below the monetary threshold, but it is subsequently increased and exceeds the monetary threshold due to an approved Contract Modification, the amount of any such Contract Modification that causes the Contract Sum to exceed the monetary threshold is subject to the Prevailing Wage Law and local hiring requirements.

18. The Contractor and all Subcontractors must post a clearly legible statement of each prevailing wage rate in a prominent and easily accessible place at the Work Site during the entire time Work is being performed, in English and any other language that is primarily spoken by the employees, at the Work Site.

19. Local hiring requirements include quarterly reporting to Central Services and/or their designee on the form designated by the Purchasing Agent which contain the following with regards to qualifying capital improvement projects of \$1,000,000 or more and capital projects of \$5,000,000 or more: 1) the number of new hires needed for the contract reporting period, 2) the total number of Anne Arundel County residents during the reporting period, 3) the total number of all employees hired during the contract period, 4) best efforts made to fill the open positions with Anne Arundel County residents; and 5) for a new hire during the reporting period: name, last four digits of the social security number, job title, hire date, address and referral source.

20. If the Purchasing Agent finds that the Contractor violated the local hiring law and it is found that the violation was intentional the Director of Central Services may in their sole discretion find that the contractor, any of its principals, or any firm, corporation or partnership in which the Contractor has an interest, may not be awarded on any County contract for one year from the date of the final decision. If a Contractor is late in submitting local hiring reports required to be submitted pursuant to the Anne Arundel County Code, the County may postpone processing payments due under the contract until the required reports are submitted.

21. In lieu of hearings, all appeals or determinations will be done through written testimony in the discretion of the Director of Central Services. Reasonable accommodations will be granted upon request. If the Director of Central Services determines that a Contractor has not made best efforts or reported as required for local hiring as required, the Director of Central Services shall issue a written decision detailing the basis for the determination. A Contractor may appeal a written decision of the Director that the Contractor violated a provision of this section to the Purchasing Agent within ten working days after receiving a copy of the decision. If the Contractor does not appeal the Director's decision within ten working days after receipt for either prevailing wage or local hiring, the Purchasing Agent's decision on the appeal is not subject to the appeal. The Purchasing Agent may investigate appeals provided prior to that time, request written testimony which must be provided to continue an appeal, or even conduct a hearing, as the Purchasing Agent deems necessary for the review of the appeal.