

## **Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor**

The Contractor and all Subcontractors must comply with the Prevailing Wage Law contained in Chapters 11B-33C and 20-75 of the Montgomery County Code. 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 purpose of a prevailing wage is to ensure that construction workers who work on public works 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.
2. Pay employees overtime for work more than 10 hours in any single day, work more than 40 hours in a work week, or work on Sunday or 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. Electronically submit payroll records through the County designated reporting system, within 14 days after the end of each payroll period, to verify that Prevailing Wage rates have been paid to employees. The payroll records must include the following:
  - A. The name, address and telephone number of the Contractor or Subcontractor;
  - B. The name and location of the job;
  - C. Each employee's:
    - a. Name;
    - b. Current address unless previously reported;
    - c. Specific work classification;
    - d. Daily straight time and overtime hours;
    - e. Total straight time and overtime hours for the payroll period;
    - f. Rate of pay;
    - g. Fringe benefits by type and amount;
    - h. Gross wages.
5. 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;
6. The Contractor and all Subcontractors must retain all payroll records for a period not less than five (5) years after the Work is completed;
7. The County may inspect the payroll records at any reasonable time and as often as it deems necessary;

8. The County may perform random or regular audits and investigate any complaint of a violation of the Prevailing Wage Law;
9. 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;
10. Contractor may appeal a written decision of the Director, Office of Procurement, that the Contractor violated a provision of the Prevailing Wage Law to the Chief Administrative Officer (“CAO”), within ten (10) days after receiving a copy of the decision. The CAO must designate a hearing officer to conduct a hearing upon receipt of a timely appeal. If the Contractor does not appeal a written decision within ten (10) days after receipt, the decision of the Director, becomes final and binding;
11. 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;
12. 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; and
13. 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: \$10 for each calendar day that the payroll records are late; \$20 per day for each day that an employee is misclassified; and \$50 per violation of the requirement to post the prevailing wage rates at the work site.
14. Where the initial Contract Sum is below the \$250,000.00 threshold, but it is subsequently increased and exceeds the \$250,000.00 threshold due to an approved Contract Modification, the amount of any such Contract Modification that causes the Contract Sum to exceed the \$250,000.00 threshold is subject to the Prevailing Wage Law.
15. 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.
16. Mechanical system service purchases that are valued between \$2,500 - \$10,000 cannot be purchased as Direct Purchase through DPO or P-card. The departments are to use existing task order based contracts for these services.
17. The Contractor is required to use its best efforts to fill at least 25% of any new positions on the project with Montgomery County residents. Please provide evidence of best efforts employed, including proof of: <https://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-196.pdf>
  - A. Job posting, electronically or print, in a local newspaper;
  - B. Participation at a local job fair;
  - C. Subscription with a local job bank;
  - D. Other related marketing strategies intended to attract local workers.

18. Quarterly reporting on the local hiring requirements:

<https://www.montgomerycountymd.gov/PRO/Resources/Files/SolForm/PMMD-195.pdf>

- A. the number of employees needed for the contract;
- B. the number of current employees transferred;
- C. the number of new job openings created;
- D. the number of job openings listed in the department;
- E. describe efforts made to fill the open positions with local County residents;
- F. the total number of Montgomery County residents hired;
- G. for the reporting period and for new hires:
  - (A) Name;
  - (B) Last four numbers of their Social Security Number;
  - (C) Job title;
  - (D) Address; and
  - (E) Hire date.