

# **FY18 Prevailing Wage Law Annual Report**

## **Executive Summary**

Beginning with contracts executed on July 1, 2009, Montgomery County's Prevailing Wage Law applies to construction contracts over \$500,000. It is modeled after the Federal Davis-Bacon and State of Maryland's Prevailing Wage laws. The Law mandates that workers on qualified County construction projects be paid prevailing wage for work in their classification. The prevailing wage rate is the rate paid for comparable work in the private sector within the County. The rates are calculated by the State, based on surveys of construction company employers.

FY18 marks the ninth year of operation of the Prevailing Wage Law. During FY18 Montgomery County and its compliance contractor monitored a total of sixty-four projects/task orders, including two federally funded projects, ten Department of General Services projects, five Department of Transportation projects and numerous task orders for the Department of Environmental Protection. A total of thirty-one construction projects and task orders were closed out during FY18.

Contractor Compliance and Monitoring, Inc. (CCMI), the County's compliance contractor, completed its ninth year of providing labor compliance services to the County. CCMI's compliance efforts included seven investigations during the year. These investigations varied in their size and scope and their results demonstrated the need for the County to be vigilant in its oversight of construction contracts subject to the Prevailing Wage Law. Their efforts resulted in the collection of \$32,521.10 in back wages for underpaid workers. CCMI continued providing guidance to the County in its ongoing effort to refine and enhance the enforcement of the County's Prevailing Wage Law.

## **PREVAILING WAGE LAW FY 2018 ANNUAL REPORT**

Montgomery County implemented the Prevailing Wage/Law in July 2009. Contactor Compliance and Monitoring Inc. (CCMI) was hired to assist the County in implementing this program. Since its inception, CCMI and the County have worked together to create the following policies, practices and protocols:

1. An audit process to specifically address the requirements of the County's Prevailing Wage law;
2. The educational aspect of labor compliance at the Preconstruction Conference (including creating a specific handout for projects funded by County funds and a separate handout with tailored information relating to federally funded projects - Davis-Bacon);
3. A monthly process of auditing payrolls and providing prompt feedback to contractors and the County's Prevailing Wage Program Manager;
4. An onsite interview format and report tailored to the provisions of the County's Prevailing Wage law;
5. Drafts of documentation for final project close out, draft of final report to Director and addressing due process appeal rights of contractors with County;
6. Updated forms, processes and protocols as the County's labor compliance program matured and best practices were established.

During Fiscal Year 2018, CCMI provided labor compliance services for sixty four projects/task orders in Montgomery County.

### **Federally Funded Projects:**

Park View at Aspen Hill  
Lee Ave. Apartments

These projects listed above include federal funding and are subject to the federal Davis Bacon and Related Acts for prevailing wage compliance.

### **Department of General Services:**

Colesville Health Center  
Council Office Building-Garage Repairs

Council Office Building-Renovation  
Demolition Parks Maintenance Buildings  
Good Hope Recreation Center  
Pre-Release DFI  
Up County RSC  
Wheaton CBD  
Wheaton Library & Community Center

**Department of Transportation:**

Clarksburg Square Road Extension  
Needwood Road Phase 2  
Platt Ridge Drive Extended  
PLD Service Facility  
Snouffer School Road South  
Snouffer School Road North

**Task Orders:**

Fallsreach-SWM  
Greencastle Lakes-SWM  
Hunter Woods III & Quail Valley II-SWM  
Northlake Apartments-SWM  
Olney Elementary LID Retrofits  
Potomac Chase & Mills Farm-SWM  
Potomac Ridge Ponds-A&B  
Pueblo Road-SWM  
Residential Roadway & Resurfacing:  
TO#1-Kemp Mill Phase 2  
TO#2-FY19-Luxmanor  
TO#3-Heritage Farm  
TO#4-Kenwood Subdivision  
TO#8-Rosemary Hills  
TO#9-Wyngate Phase II  
TO#10-Wheaton Woods Phase I  
TO#11-Woodside Forest  
TO#12-Quince Orchard Knolls  
TO#14-Watkins Mill Rd Overlay  
TO#15-Strawberry Knoll Overlay  
University Towers LID Retrofit

**Projects/Task Orders Closed Out:**

1301 Piccard Drive  
355 Sidewalks  
8818 Georgia Avenue  
Argyle Middle School LID Retrofits

Bedfordshire  
Circuit Court Helix  
Circuit Court Interior Alterations  
D&F-Franklin Knolls Phases 3&4  
Dennis Avenue Health Center  
Fire Station #15-HVAC  
FY17 Library Refresh-Bethesda Library, White Oak Library, Quince Orchard  
Fox Hills-SWM  
Hot Mix Asphalt Patching & Resurfacing of Residential Roadways  
Kensington Library  
Longwood Recreation Center  
Needwood Road Bikepath Phase 1  
Overlay of Primary Roads  
Pennyfield Lock Road Bridge  
Piney Meetinghouse Road over Watts Branch Bridge  
Plantations II-SWM  
Potomac Ridge Ponds-C&D  
Pre-Release Center Roof  
PSHQ-Elevators  
PSTA-Demo  
Strathmore Mansion  
Twinbrook Library  
Valley Park-SWM  
Wapakoneta Roadway  
Whetstone Run Ponds-Phase 2  
White Flint Workaround

## **Investigations:**

Investigations were launched for seven contractors on the six projects identified below. An investigation is more than review of deficiencies. They can take several months and require the collection and review of additional documentation and interviews, verification of restitution, etc. An investigation is launched when CCMI receives information that employees are not paid the correct prevailing wage rate, are not paid for all hours worked (underreporting of hours), are not paid overtime, or are being paid in the wrong work classification.

An investigation may include contacting each of the employees listed on the certified payrolls via phone call or letter, in both English and Spanish, asking them a series of questions about the type of work they perform and the hours worked on the project and asking them to respond if they believe they were not paid the correct wages or paid for all hours worked. These letters to workers are tailored to address the particular circumstances surrounding a given contractor or subcontractor under investigation. For those employees who respond or with whom CCMI has already spoken with during onsite interviews, CCMI contacts to verify additional information.

An investigation frequently includes a request for additional documentation from the contractor or subcontractor and a review of timecards, pay stubs and cancelled checks of other pertinent information sources, then a cross check against the certified payrolls submitted. At times, CCMI also requests copies of Daily Job Logs from the prime contractor, particularly in instances where CCMI actually interviews an employee or subcontractor on the jobsite, but that employee does not appear on the certified payrolls or the subcontractor submits no payrolls for that time frame.

### **Dennis Avenue Health Center – City Concrete**

CCMI identified workers who were performing reinforcing ironwork, but were paid below the required wage rate for that classification. Daily logs were requested for the investigation; however, they did not coincide with the inspector's daily logs. CCMI conducted additional interviews and confirmed time worked under this classification and provided this information to the subcontractor via letter. The subcontractor did ultimately provide back pay for the misclassification.

### **Library Refresh – Tito Contractors**

An employee of subcontractor Tito Contractors was misclassified and underpaid for work performed as a painter at the Aspen Hill Library. CCMI issued notice to the prime and subcontractor Tito Contractors to issue restitution payment to affected worker; however, the wages due were never issued. The affected worker stated that he experienced retaliatory behavior from Tito's personnel and subsequently stopped working for them. The worker contacted CCMI to advise that, when he went to pick up his last check for work performed at the Aspen Hill Library, Tito Contractors owner simply told him that he would not get his last check. CCMI requested the bank statement reflecting the last check reported on LCPtracker for the affected worker (the check he never received); however, Tito Contractors did not submit the proof of payment. CCMI has listed the outstanding check amount which was reported on LCPtracker for the affected worker as wages due. The County subsequently withheld that amount from retainage and issued a check to the worker.

### **Needwood Rd. Bike Path – General – D&F Construction**

Field interviews by CCMI revealed flagging work performed by D&F employees; however, they were listed and paid at the unskilled laborer rate. Additional field interviews were conducted to verify that the same employees were continually misclassified and verification was provided onsite and through subsequent phone calls made to the affected workers. CCMI advised the Prime who ultimately did provide restitution payments.

### **355 Sidewalks – General – D&F Construction**

Field interviews by CCMI revealed carpentry work performed by D&F employees; however, they were listed and paid at the unskilled laborer rate. As this investigation revolved around a prime contractor who was found to have misclassified on a prior project, further action was taken to ensure that workers were properly classified. Additional field interviews were conducted to verify that the same employees were continually misclassified and verification was provided onsite and through subsequent phone calls made to the affected workers. CCMI advised the prime of its findings and the prime ultimately did provide restitution payments for the misclassification.

### **Circuit Court Alterations - CW Construction Group, LLC:**

A request for payroll detail records revealed that the “cash fringes” as reported on LCPtracker were not paid on the checks of four employees. Additionally, a third-party complaint was submitted to the County for one of the affected employees, which indicated receipt of a lower rate for certain hours, not receiving fringe rate for certain hours, and not receiving pay for certain hours. Utilizing the project job records and payroll detail reports, CCMI generated a wages due sheet for the four employees. The result of the investigation was CW Construction issued restitution payment for all wage violations.

### **Circuit Court Alterations - Peredo Construction LLC (Lower tier sub to Del-Ray Contract Glazing, LLC):**

An investigation was initiated when field interview reports indicated two employees were working for Del-Ray, yet only one employee was reported on the certified payroll. Upon further investigation, it was determined that the missing employee was actually employed by a lower tier sub-contractor, Peredo Construction. It was also determined that the employee was not paid the proper prevailing wage rate and was not reported on certified payroll. Del-Ray Contract Glazing worked together with their lower tier-sub, Peredo Construction, to seek a solution. The result of the investigation was that Peredo Construction issued restitution for all wage violations.

### **Wapakoneta Roadway – F&L Construction**

An investigation was initiated when field interview reports indicated the working foreman was misclassified for the classification of power equipment operator excavator. Additional communication with the affected worker revealed other compliance issues, including failure to receive third party fringes. Further onsite interviews were performed with the affected employee and evidence was collected to confirm the findings. The subcontractor failed to acknowledge the findings and took no action to correct the wage violations. It was not until the project was completed that the subcontractor ultimately paid the wages due.

### **Investigation Summary:**

There are scores of deficiencies identified each month through the regular monthly audit process. In most instances contractors and subcontractors are cooperative in correcting these issues. Any underpayment of wages and fringe benefits also requires a correction of the certified payrolls, which must be reviewed a second time. CCMI also requires proof of any restitution paid to employees, so CCMI follows up with the contractor or subcontractor to receive and review copies of cancelled checks to ensure employees are made whole by the previous misclassifications or underpayments. In some cases CCMI may call to confirm with employees that they did in fact receive the restitution due them, particularly if checks were large or the contractor or subcontractor has a history of non-compliance with the County Prevailing Wage Law.