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May 23, 2019

To: UCCI Membership

Re: Prevailing Wage Update

Amendments to the Illinois Prevailing Wage Act (“the Act”) made by Public Act 100-1177 become effective on June 1, 2019. Some of the changes to the Act that membership should be aware of include the following:

1. As of June 2019, counties will no longer be responsible for investigating and ascertaining the prevailing wage, or for publishing, posting or keeping available for inspection such prevailing wage resolution. Instead, the Illinois Department of Labor will investigate and ascertain the prevailing wage rates for each county in Illinois and publish those rates on its official website no later than July 15 of each year. This **means annual prevailing wage ordinance is no longer necessary.**
2. The prevailing rate of wages shall not be less than the rate for work of a similar character on public works in the locality in which the work is performed under collective bargaining agreements or understandings between employers or employer associations and bona fide labor organizations relating to each craft or type of worker or mechanic needed to execute the contract or perform such work, and collective bargaining agreements or understandings successor thereto, provided that said employers or members of said employer associations employ at least 30% of the laborers, workers, or mechanics in the same trade or occupation in the locality where the work is being performed. Where no such collective bargaining agreements exist, the Department of Labor must determine the prevailing wage rate for the same or most similar work in the nearest and most similar neighboring locality in which such agreements exist.
3. If it is established, following a written objection and a hearing, that less than 30% of the laborers, workers, or mechanics in a particular trade or occupation in the locality where the work is to be performed receive a collectively bargained rate of wage, then the average wage paid to those laborers, workers or mechanics in the same trade or occupation in the locality for the 12-month period preceding the Department of Labor’s annual determination shall be the prevailing rate of wage.

4. Objections shall be filed with the Department of Labor and the hearing shall be held by the Department of Labor within 45 days of the objection.
5. The Department of Labor is required to develop an electronic database capable of accepting certified payroll by April 1, 2020. After this time, counties should not have to maintain certified payrolls for their public works projects. Until then, contractors and subcontractors who participate in a public works project must file, by the 15th of the month, a certified payroll for the immediately preceding month with the public body in charge of the project.
6. The public body must keep certified payroll records for a period of five years or until the Department of Labor Activates the electronic database mentioned above, whichever is less. After the activation of the electronic database, the Department of Labor, rather than the public body in charge of a project, will keep the records and maintain the database.
7. The public body awarding any contract for or undertaking any public works must specify in the call for bids and any contract that prevailing rate of wages apply.

Additionally, membership should be aware of the following information that will continue to apply.

1. The Act does not require a contractor engaged in the construction of public works to adopt any particular business structure (e.g., corporation, partnership, limited liability company, sole proprietorship, etc.). However, if a contractor chooses to engage in the construction of public works in Illinois, he/she must prepare, maintain and submit certified payroll for all laborers, workers and mechanics who perform services on that public work-without regard to the worker's status as "employee", "shareholder", "partner", or "member" and ensure they are paid the prevailing wage.
2. The Act's requirement that "[n]ot less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed . . . shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction or demolition of public works"¹ does not apply to those persons directly employed by the public body.²

¹ 820 ILCS 130/3

² Bradley v. Casey, 415 Ill. 576, 582, (1953) (Holding that "such provisions of the act which heretofore might have been construed as requiring payment by public bodies of prevailing per diem wages in direct employment of workmen in construction of public works are invalid...").