

## Residential Prevailing Wage Rate Policy

June 2024

The Office of Housing (OH) makes loans to private housing developers to support the development of low-income housing. OH funds a portion of the total development costs. Projects are new construction or rehabilitation of existing properties. The Borrower is responsible for securing the balance of the funding needed to complete the project; bidding, contracting, and managing the construction activities. Upon completion the borrower owns and manages the property. The City has no ownership interest in the housing. In addition to long term housing affordability, the City of Seattle also applies a number of policies to achieve appropriate public benefits including wage requirements for construction activities.

### Policy

State Residential Prevailing Wage Rates shall be the minimum rates paid to construction workers on all projects funded by the Rental Housing Program unless a higher minimum rate applies or an exception is made as described below. When federal funds trigger prevailing wage requirements as determined under the Davis Bacon Act, the higher of either the State Residential Prevailing Wage Rates (unless modified as stated below) or Davis-Bacon wage rates will apply to each job classification, unless applicable law requires otherwise. The OH Director may approve a change in these requirements if necessary to achieve compatibility with a state or federal funding source or to promote inclusion of Levy-funded units in mixed income and/or mixed-use buildings. The Office of Housing works closely with the Department of Finance and Administrative Services (FAS) to monitor the payment of appropriate wages under the procedures below. In cases where Davis Bacon wages are triggered by federal funding, Davis Bacon monitoring procedures are followed instead of OH monitoring procedures and those projects are monitored by the City of Seattle Human Services Department (HSD), the Department of Housing and Urban Development (HUD) or the Seattle Housing Authority (SHA) depending on the specific source of federal funding.

The Borrower's process for selecting a general contractor and subcontractors must be approved in writing by OH. If the Borrower is negotiating a contract with a general contractor the prevailing wages in effect on the date the general contract is executed shall be the applicable wages. In the case of a publicly advertised bidding process of either the general contractor or subcontractors (e.g., advertisement in the Daily Journal of Commerce and availability of plans and specifications in a plan center, etc.) the prevailing wages in effect 10 days prior to bid opening shall be the applicable wages throughout the term of a project provided that the general contract is signed within 60 days of the bid opening. If the general contract is signed more than 60 days after the bid opening the wages in effect on the date of the contract will be the applicable wages. In the case of a subcontractor publicly advertised bidding process all subcontractor bids for every division shall be due on the same date, unless approved otherwise by OH. In a public bidding process a deadline for the submission of all bids shall be strictly observed.

OH understands that actual wages paid on the project may be higher than the applicable minimum State residential prevailing wage rates or federal Davis-Bacon wage rates. In either case, the State residential prevailing wage rates or federal Davis-Bacon wage rates are ONLY the MINIMUM applicable wage rates.

Although Office of Housing funded projects are not “public works,” the required residential prevailing wage rates are those established by the State of Washington for residential public works projects. The applicable King County residential wage rates can be found at the web address below: <https://lni.wa.gov/licensing-permits/public-works-projects/prevaling-wage-rates/>. Be sure to select King County for the correct wage rates and to scroll through the alphabetic list of trades to the “r” section for the residential rates where applicable.

## Procedures

### Construction Bidding

1. All bid documents including the Instructions to Bidders for both general contractors and subcontractors of every tier must clearly state the appropriate wage rates (i.e., residential prevailing wages and the date of the appropriate wage schedule) and the Borrower shall incorporate the following OH requirements in all bid documents:
  - a. State Residential Prevailing Wage rates are the minimum wage rate to be paid for each job classification.
  - b. All contractors and subcontractors (including lower tier subcontractors) must complete for submission to the City the OH Intent to Pay Prevailing Wage and the OH Affidavit of Wages Paid (Note: only the OH forms are acceptable; L&I’s forms are no longer acceptable for submission to OH. Projects who need to report to L&I based on another funder’s requirements (except when Davis Bacon monitoring procedures are being followed) will need to also continue to report to the City and follow OH policies and procedures).
  - c. All workers must sign in at the job site daily including time-in and time-out. The workers must identify the contractor or subcontractor for whom they are working and their job classification.
  - d. All workers must be paid by check or an alternative form of payment that can be independently verified and is approved by the City. Workers cannot be paid in cash. Pay dates and pay amounts must correspond with submitted certified payrolls (i.e., weekly, or biweekly not bi-monthly).
  - e. Sign-in sheets shall be written in English and Spanish (and other languages, as appropriate) and shall include the name and phone number of the current wage monitor, for a worker to contact if there are any questions or concerns about their wages or any other concerns about the project.
  - f. Sign in sheets shall be submitted to the wage monitor monthly or more frequently upon request, If your project is submitting payrolls electronically then sign-in sheets should be uploaded to the online system (e.g., LCPTTracker) with the corresponding certified payroll.

- g. All contractors and subcontractors (including lower tier subcontractors) must maintain certified payroll records and provide all payrolls to the wage monitor in hard copy or electronically, as required by OH.
  - h. All contractors and subcontractors must be prepared upon request and within no more than ten business days to provide any additional paperwork necessary to confirm hours worked and wages paid including but not limited to employee timecards, cancelled checks or other payroll records necessary to confirm payment amounts.
  - i. Copies of executed subcontracts, including lower tier subcontracts, shall be provided upon request and within no more than ten business days.
2. Selected bids for all trades must include the total bid price detailed to show material costs and labor costs. The labor cost must include the estimated labor hours per job classification, and hourly wage rates according to the applicable State Residential Prevailing Wage. Even if work is typically bid as piece work, OH requires that the labor portion of the bid be converted to reflect an hourly wage.

## Contracting

1. Borrowers shall make every reasonable and practicable effort to utilize a competitive public bidding process. OH strongly encourages rigorous competitive selection to capture competitive pricing. Applicants must propose a competitive process for contractor selection and receive approval in writing from OH before proceeding with contractor selection.
2. It is the Borrower's responsibility to incorporate or cause to be incorporated all required OH boilerplate language including all Construction Bidding requirements described above into the general contractor's contract and all subcontracts (including lower tier subcontracts) including requiring the State Residential Prevailing Wage rate as the minimum rate, the OH intents and affidavits, job sign in requirements, etc.
3. The Borrower shall set forth in the project manual and in each contract for the general contractor and all subcontractors (including lower tier subcontractors) the following statutory provisions and provide notice of the obligation of all contractors and subcontractors to comply with such statutory requirements:
  - a. the State Minimum Wage Act, including the following provisions as they may be amended from time to time: STATE MINIMUM WAGE ACT RCW 49.46.070; RCW 49.46.100(1).
  - b. RCW 49.52.050, Rebates of wages--False records—Penalty.
4. The Borrower must include or cause to be included language in the construction contracts, project manual and subcontracts (including lower tier subcontracts) to require that any construction documents requested by the City will be delivered within 10 business days.
5. All contractors must submit required documentation using LCPTTracker unless approved otherwise in writing by OH.
6. Prior to issuing the Notice to Proceed, the Borrower must collect the OH Intent to Pay Prevailing Wage form from the general contractor and forward the original to the wage monitor or upload it to LCPTTracker as required. Prior to starting work on the project, each subcontractor (including lower tier subcontractors) shall complete the OH Intent to Pay Prevailing Wage form and it shall be sent to the wage monitor or uploaded to LCPTTracker as required. The original completed

forms shall be forwarded to the wage monitor or uploaded to LCPTTracker and copies retained by the Borrower. The Borrower shall verify that all OH Intent to Pay Prevailing Wage forms submitted by contractors and subcontractors indicate the correct wage rates.

7. The Borrower shall ensure that the general contractor, prior to accepting the subcontractors' bids, has confirmed that each subcontractor's bid is based on the appropriate prevailing wage rates and the correct job classifications for the work to be performed under the subcontract. The selected bids shall be forwarded to the City.

## **Pre-Construction Meeting**

1. Prior to construction start, OH and Finance and Administration Services (FAS) will attend a pre-construction meeting convened by the Borrower or OH to include the general contractor, architect and any major subcontractors that have been selected at the time of the meeting. Items to be reviewed include signage, sign-in sheets, contract language, wage rates, payroll records, WMBE reporting, possible audits, etc. The Borrower shall ensure that notes of the meeting are recorded and distributed to all parties.

## **Prior to First OH Construction Disbursement**

1. As soon as it is available and no later than the first OH Construction Disbursement the Borrower shall submit a narrative summary of the final bidding process to OH that includes the following information at a minimum (Description of Bid Process and Summary of Winning Bidders forms located on OH website at <http://www.seattle.gov/housing/housing-developers/rental-housing-program/projects-in-construction>):
  - a. Process followed for selecting the general contractor and the selection criteria used (Selection criteria shall include demonstrated prior compliance with wage rates.).
  - b. List of each of the subcontractors by trade, number of bids received, the bid prices.
  - c. Selected bids for each subcontract awarded to date, showing the total bid price broken into material costs, labor costs, estimated labor hours per job classification, and hourly wage rates according to the applicable State Residential Prevailing Wage determination (this information can be reported on the OH Intent to Pay Prevailing Wage; if a trade has not been bid at time of first construction draw, the Borrower shall provide that information when the trade has been bid).
2. The Borrower shall forward to OH a copy of the executed general contract and a final set of plans and specifications.
3. The Borrower shall provide OH copies of executed subcontracts upon request.
4. The Borrower shall forward to the wage monitor or upload to LCPTTracker the general contractor's signed original Intent to Pay Prevailing Wages.

## **Construction**

1. As required by OH, some or all wage monitoring information and/or forms should be submitted online through LCPTTracker.

2. The Borrower, through the general contractor and subcontractors, must require all workers to sign in and out of the job site daily identifying the subcontractor for which they are working and their job classification. Electronic forms of sign-in are allowed with OH written approval.
3. Sign in rosters shall be written in English and Spanish (or other languages as appropriate) and must include the name and phone number of the current wage monitor for the worker to call if there are any questions or concerns.
4. Sign in rosters must be provided to the wage monitor with the corresponding certified payroll or to OH upon request within ten business days.
5. The Borrower must insure that the general contractor post a Notice to Employees of Wage Rates and Overtime requirements in a place that is accessible to all workers on the project.
6. The Borrower must provide or cause the general contractor and all subcontractors (including lower tier subcontractors) to maintain and provide to the wage monitor certified weekly payroll records in a form acceptable to OH within 10 business days of the completion of the payroll period. A copy of the Office of Housing Certified Payroll form along with instructions is available on the Office of Housing website <http://www.seattle.gov/housing/housing-developers/rental-housing-program/projects-in-construction>. As an alternative Contractors may use the US Department of Labor Payroll form or another form acceptable to OH if approved by the wage monitor.

Certified payroll records must include:

- Name and residence address of each worker.
  - Classification of work performed by each worker. The classification must be specific and match the classification categories listed in the Project Manual.
  - Total number of hours employed each day.
  - Total number of hours employed during the payroll period.
  - Straight time and overtime hourly rate of wages paid to each worker.
  - Total or gross amount earned by each worker.
  - Deductions for Medical Aid, FICA, Federal withholding tax, and any other deductions taken.
  - Net amount paid each worker.
  - Contractor's (or subcontractor's) name and address.
  - Days and dates worked.
  - Date of final day of pay period.
  - Details of any and all fringe benefits paid to each worker as part of the hourly wage rate or as part of an approved plan, fund, or program.
7. The Borrower must ensure that the general contractor has established controlled access points to the work site, which at minimum shall be staffed at all times during the hours of work while drywall is being installed and finished. Furthermore, the general contractor must ensure that only workers hired by the contractor or subcontractor are working on the project.
  8. The Borrower must ensure that the general contractor requires that anyone entering the site during the time period that drywall is being installed and finished displays to the staff person at the controlled access points, a photo ID, which may consist of a valid drivers' license, or ID issued by any state or Consulate, or a passport, or other identification generally accepted. The Borrower shall ensure that the General Contractor does not admit any personnel who do not

carry identification. OH reserves the right to expand this requirement to other trades or time periods, as necessary.

9. The Borrower shall ensure that the general contractor has posted both the Prevailing Wage Poster and the Onsite Interview Poster located on OH's website (<http://www.seattle.gov/housing/housing-developers/rental-housing-program/projects-in-construction>) in Spanish and English in at least three areas clearly visible to workers.
10. Borrower shall promptly inform the wage monitor and OH about any wage payment issues that arise on the project.
11. The Borrower shall ensure that the general contractor incorporates information regarding prevailing wage requirements and worker rights into weekly meetings for workers (this information can be provided at weekly site safety meetings).

## Monitoring

1. The Borrower shall be required to ensure that the correct wage rates are paid and shall describe their process for ensuring compliance in the NOFA application with an update submitted prior to finance closing; including identifying the lead responsible staff person, a description of their process, site security measures, and an outline of any remedies they will pursue in the event of non-compliance.
2. The Department of Finance and Administration Services (FAS) will conduct random on-site audits to ensure wage rate compliance. On-site audits will include the following:
  - a. Confirming that all drywall workers, and other contractor and subcontractor workers have signed in to the job.
  - b. Comparing the sign-in sheet to who is actually on site.
  - c. Interviewing workers to determine how many hours worked that day, that week, and who else they were working with.
  - d. Documenting the type of work performed, tools and equipment used in order to confirm the correct job classification.
  - e. Insure that workers understand the prevailing wage policy.
  - f. Confirming that required signage is posted in at least three highly visible areas.
3. FAS will conduct random off-site audits. Off-site audits will including the following:
  - a. Reviewing payroll records to determine appropriate wage rates are paid.
  - b. Comparing job sign in rosters to payroll records.
  - c. Comparing payroll records to onsite interview results.
  - d. Request and collect additional information necessary to verify wages paid (e.g., timecards, payroll records, etc.).
4. If a wage complaint is made or upon request by OH or the wage monitor the Borrower shall insure that within ten business days of the complaint or request the following documentation must be submitted to the wage monitor:
  - a. a cover letter detailing any prevailing wage issues that have arisen on the project with proposed steps to resolve the issue.
  - b. all daily sign-in sheets not previously provided (submit electronically as required).
  - c. all Certified Payrolls for each contractor not previously provided (submit electronically as required).

- d. all Intents to pay Prevailing Wages for every contractor performing work onsite not previously provided (submit electronically as required).
- e. all Affidavits of Wages Paid for every contractor who has completed all contracted work onsite not previously provided (submit electronically as required).
- f. other information as needed to confirm wages paid.

## **Close Out and Final Construction Draw**

Borrowers shall submit the following with the final draw and shall not release construction retainage until the following documentation has been forwarded to OH:

1. Architect's certification that all contract items have been completed, including without limitation all "punch list" items, delivery of as-built documents, and delivery of maintenance manuals.
2. Relocation report, if applicable, including documentation of compliance with all relocation assistance requirements.
3. Cost Certification.
4. Certificate of occupancy.
5. Final lien releases.
6. Tenant characteristics for federally funded projects.
7. Final WMBE report.
8. Other reports and documentation as requested.
9. City of Seattle Affidavits of Wages Paid from the General Contractor and all sub-contractors; and
10. Statement from Borrower that the project has complied with labor standards and contracting requirements accompanied by any necessary information or evidence required to demonstrate compliance.

Any deviation from these policies and procedures must be approved in writing by the Office of Housing.