

FY24 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; the Law was amended July 1, 2022, to reduce the threshold to \$250,000. 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 the prevailing wage rate and fringe benefit rate for work in their respective work classification. These rates are the rate paid for comparable work in the private sector within Montgomery County. The rates are calculated by the State, based on surveys submitted by construction companies located in all 23 counties and Baltimore City.

FY24 marks the 15th year of operation of the Prevailing Wage Law. During FY24 Montgomery County and its compliance vendor monitored a total of 55 projects/task orders, including 1 federally funded project, 13 Department of General Services projects, 11 Department of Transportation projects, 1 Department of Housing and Community Development projects and 14 projects for the Department of Environmental Protection. A total of 16 construction projects/task orders were closed out during FY24.

Contractor Compliance and Monitoring, Inc. (CCMI), the County's compliance contractor, completed its 15th year of providing labor compliance services to the County. CCMI's compliance efforts included investigations of subcontractors on various projects 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.

The County closed out 16 projects during the year. This resulted in the collection of \$80,484.00 in back wages. In addition, the County assessed contractors \$135,047.00 in liquidated damages due to late submission of payroll or wage violations. CCMI continues to provide guidance to the County in its ongoing effort to refine and enhance the enforcement of the County's Prevailing Wage Law.

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Montgomery County implemented its 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:

- An audit process to specifically address the requirements of the County's Prevailing Wage Law
- The educational aspect of labor compliance at the Preconstruction Conferences (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)
- A monthly process of auditing payrolls and providing prompt feedback to contractors and the County's Prevailing Wage Program Manager
- An onsite interview format and report tailored to the provisions of the County's Prevailing Wage law
- Drafts of documentation for final project close out, draft of final report to Director and addressing due process appeal rights of contractors with County
- Updated forms, processes and protocols as the County's labor compliance program matured and best practices were established

At the conclusion of each project, CCMI submits a Project Completion Report to the County. The report details, by contractor and subcontractor, each prevailing wage violation identified during the monitoring process; the steps CCMI took during its audit and/or investigative process; a narrative of the violation and any special circumstances; a discussion of the remedy (restitution); whether that restitution has been made by the contractor; and recommendations to the County.

Projects:

During Fiscal Year FY24, CCMI provided labor compliance services for 55 projects/task orders.

Federally Funded Projects:

St. Anne's Senior Apartments

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

Montgomery County/Maryland Prevailing Wage:

Alcohol Beverage Services:

Westwood Liquor Store

Department of General Services:

6th District Police Station
ADA Combined Care Facility
ADA Halfway House
ADA Ramps-BWE
Avery Road Treatment Center
COB Cafeteria
Childcare Center at Upcounty Regional Services Center
Elevator Maintenance Services
Long Branch Library Canopy
PSCC Electrical Distribution & HVAC Upgrade
Twinbrook Window Replacement
Upper County Pool Slides Replacement
VFS #8 Female Facility Upgrade

Department of Transportation:

ADA Remediation & Improvement of Parking & Associated Sidewalks
Clarksburg Rd. Intersection-MD 355
Metro Branch Trail
Crabbs Branch Way Culvert Repair
Good Hope Road
Great Seneca Transit Network
M.Luis-Application of Slurry Seal
M.Luis-Residential Roadway Resurfacing
MT Laney Application of Slurry Seal
Residential Infrastructure Rehabilitation
Sidewalks ADA Ramps- D&F

Department of Environmental Protection:

Aboveground SWM Facilities
Buckhorn Branch- *pending; nothing done yet.*
Business District County Wide Concrete

Clearspring Manor
Cypress HOA- *pending; nothing done yet.*
Longmead Stormwater Management Pond Retrofit
Manchester Farm- *pending; nothing done yet.*
Miracle Drive- *pending; nothing done yet.*
Oxford Crossing- *pending; nothing done yet.*
Pine Knolls- *pending; nothing done yet.*
Potomac Manors- *pending; nothing done yet.*
Underground Stormwater Management
Watkins Mill Road
Williamsburg Run- *pending; nothing done yet.*

Projects/Task Orders Closed Out:

401 Hungerford Drive Garage Repairs
Airpark TO C18-19
Amaranth Culvert
Appellate Court Judges Chambers
Aspen Hill Library Window Replacement
Clarksburg Fire Station #35
Clarksburg Sewer Part C
Damascus VFS#13
Gaithersburg Liquor Store
Lake Hallowell
Mouth of Monocacy
Railroad Branch Dam Repairs
St. Anne's Senior Apartments
Tucker Lane Culvert
US 29 BRT Briggs Chaney Comfort Station

Investigations:

An investigation is launched when CCMI receives information that employees are not being paid the correct prevailing wage rate, are not paid for all hours worked (underreporting of hours), are not being paid overtime, or are being paid in the wrong wage category (misclassification).

An investigation frequently includes requesting additional documentation from the contractor or subcontractor and then reviewing timecards, daily job logs, pay stubs and cancelled checks and cross checking that information against the certified payrolls submitted.

Samples of investigations and results:

-An audit review of certified payroll revealed wage violations occurred due to overtime violations. Daily overtime violations occurred when there was work performed over ten hours in one day. The subcontractor was not aware of the requirement; however, they promptly rectified

the violation by issuing restitution to the affected workers. The subcontractor fully cooperated with the findings and remained in compliance for the duration of the project.

-Through an audit review, it was discovered that a contractor had no workers of a certain trade which was included in their scope of work. After advising contractor of possible misclassification issue on monthly report and an online meeting, the contractor advised that all employees were paid correctly but their time was not being broken down by trade for simplicity of record keeping. After the meeting all payroll records were corrected moving forward to breakdown employees time by trade classification so in the event of future audit the County would see all trades being performed.

- An audit review of certified payroll and Apprentice documentation revealed wage violations occurred due to Apprentice ratio errors. Apprenticeship standards agreements dictate the ratio requirements and in this case the contractor utilized more apprentices than allowed per supervision requirements; therefore, the affected apprentice was essentially unsupervised and should then have been paid the full Journeyman rate. The contractor cooperated with the findings and issued restitution pay.

-Through an audit, it was revealed that a contractor listed “cash” as method of payment to employees on the payroll records. CCMI requested proof of payments made and contractor provided check stubs. CCMI is still verifying that those checks were in fact issued to employees and will update County as the issue is resolved.

- A worker was interviewed onsite; however, when the certified payroll was submitted, the worker was not listed. It was discovered the worker was not paid the prevailing wage rate; therefore, was due restitution. The contractor issued restitution to the affected employee.

-Through employee interviews, it was revealed workers were not classified and paid correctly. After advising the Prime contractor, subcontractor and tier subcontractor whose employees these were via audit reports and an online meeting, it was agreed that CCMI would run a liquidated damage worksheet detailing all dates/hrs worked by employees and the tier subcontractor would need to issue restitution. The affected tier subcontractor refused to issue the required payments to the employees; so, the subcontractor which hired the tier subcontractor issued the payments and had employees pick up the checks from the jobsite. All employees were sent letters in English and Spanish and the misclassification/underpayment explained to them. They all had to provide a government issued ID and sign a detailed letter regarding the restitution amount owed to them that they were receiving on behalf of the work completed on that project.

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 items when they are identified. Any underpayment of wages and fringe benefits also requires a correction of the certified payrolls, which must be reviewed. CCMI requires proof of any restitution paid to employees and follows up with the contractor or subcontractor to receive and review copies of cancelled checks to ensure employees are justly compensated. In

some cases, CCMI may call to confirm with employees that they did, in fact, receive the restitution due them, particularly if checks were unusually large or the contractor or subcontractor has a history of non-compliance with the County Prevailing Wage Law.

Results:

For the year, the County recovered \$80,484.00 in restitution for workers on County construction contracts. There are liquidated damages associated with late submission of payroll and wage violations. The total liquidated damages listed in the Project Completion Reports, for projects closed out during the year, amounted to \$135,047.00. The County invites contractors to provide documentation that would refute the findings. The County weighs this documentation very carefully during the process of issuing a final determination.