

FY25 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.

FY25 marks the 16th year of operation of the Prevailing Wage Law. During FY25 Montgomery County and its compliance vendor monitored a total of 66 projects/task orders, including 1 federally funded project, 1 Alcohol Beverage Services project, 2 Technology Enterprise Business Solutions projects, 9 Department of General Services projects, 13 Department of Transportation projects, 1 Department of Housing and Community Development projects and 15 projects for the Department of Environmental Protection. A total of 25 construction projects/task orders were closed out during FY25.

Contractor Compliance and Monitoring, Inc. (CCMI), the County's compliance contractor, completed its 16th 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 25 projects during the year. This resulted in the collection of \$12,293.39.00 in back wages. In addition, the County assessed contractors \$154,718.00 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.

FY25 Prevailing Wage Law Annual Report

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 FY25, CCMI provided labor compliance services for 66 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 (1):-

White Oak Liquor Store

Department of General Services (9):

ADA Ramps-BWE
Bethesda Volunteer FS #20
Damascus Library and Senior Center
DMF HQ Kitchen
Elevator Maintenance Services
Kennedy Shriver Aquatic Center
MLK Pool Renovation & ADA Upgrade
PSCC Electrical Distribution & HVAC Upgrade
PSCC II-Mechanical Roof

Department of Transportation (13):

ADA Remediation & Improvement of Parking & Associated Sidewalks
Bridge Preservation County Wide
Burtonsville Access Road
Grosvenor BIPPA Sidewalk & Path
M.Luis-Application of Slurry Seal
M.Luis-Residential Roadway Resurfacing
MT Laney Application of Slurry Seal
Marinelli Road One Way Separated Bike Lanes
Metro Branch Trail
Overlay of P&A Roads
Residential Infrastructure Rehabilitation
Sidewalks ADA Ramps- D&F
Valleywood Drive Pedestrian Bridge

Department of Environmental Protection (15):

Aboveground SWM Facilities
Buckhorn Branch
Business District County Wide Concrete
Clearspring Manor
Cypress HOA
Grosvenor Primary C18-24
Manchester Farm.
Miracle Drive
Norbeck Manor C18-23

Oxford Crossing.
Pine Knolls
Potomac Manors
Rossmore Leisure World
Underground Stormwater Management
Williamsburg Run

Department of Technology & Enterprise Business Solutions (2):

Cidermill Apartments ISP
Forst Oak Tower

Projects/Task Orders Closed Out (25):

6th District Police Station
ADA Combined Care Facility
ADA Halfway House
Avery Road Treatment Center
Childcare Center at Upcounty Regional Services Center
Clarksburg Rd. Intersection-MD355
COB Cafeteria Renovation
Crabbs Branch Way Culvert Repair
Dawson Avenue Culvert Replacement
DPS 6th & 7th Floor
Glenmont Wheaton Pool
Good Hope Road
Great Seneca Transit Network
Long Branch Library Canopy
Longmead Stormwater Management Pond Retrofit
MCCF Gate
McGee Window Film Project
MCOB Window Replacement
MLK Pool Slides
Silver Spring Fiber Hub
Twinbrook Window Replacement
Upper County Pool Slides Replacement
VFS #8 Female Facility Upgrade
Watkins Mill Road
Westwood Liquor Store

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.

- 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.

- 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 tried to issue payment to the effected employee to no avail because this particular employee was not a consistent worker and could not be reached with listed contact information within the company file.

-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 \$12,293.39 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 \$154,718.00. The County invites contractors to provide documentation that would refute the findings. The County weighs this documentation vary carefully during the process of issuing a final determination.