



## Chapter VI

### RULES OF PRACTICE AND PROCEDURE FOR COMPUTING AND DETERMINING WYOMING'S PREVAILING WAGE RATES

#### Section 1. Authority.

These rules and regulations are promulgated and enacted by the Department of Employment pursuant to W.S. 27-4-404 of the Wyoming Prevailing Wage Act of 1967, as amended, and in accordance with W.S. 16-3-115 of the Wyoming Administrative Procedures Act.

#### Section 2. Purpose and Scope.

These rules and regulations are promulgated to assist the Department of Workforce Services in its duty to enforce laws enacted by the legislature relating to labor and to set forth a procedure for computing and determining the wage rates as is required by W.S. 27-4-404 of the Prevailing Wage Act of 1967, as amended.

#### Section 3. Definitions.

By reference, all definitions set forth in W.S. 27-4-402 are incorporated herein. Specifically, the following definitions are set forth:

(a) "Act" means the Wyoming Prevailing Wage Act of 1967, W.S. 27-4-401 through 27-4-413, as amended.

(b) "Department" means the Department of Workforce Services.

(c) "Director" means the Director of the Department of Workforce Services or his/her designee.

(d) "Journeyman Level Worker" means a worker with sufficient experience and training in his or her trade to be proficient in the skills necessary to perform all aspects of the trade.

(e) "Building Construction" means the construction generally needed to perform construction, reconstruction, improvement, enlargement, alteration or repair of any public building fairly estimated to cost twenty-five thousand dollars (\$25,000.00) or more.

(f) "Heavy and Highway Construction" means the construction generally needed to perform construction, reconstruction, improvement, enlargement, alteration or

repair of any heavy or highway project fairly estimated to cost twenty-five thousand dollars (\$25,000.00) or more.

(g) “Survey” means an instrument to ascertain the Prevailing hourly rate of wages for the construction trades through data collection of relevant hourly wages paid to workman.

(i) “Fringe Benefits” means the usual and customary benefits paid to workman in addition to wages as set forth in Section 10 of these rules.

(j) “Moving Average Wage Adjustment” means an adjustment made to the Prevailing hourly rate of wages to allow for economic fluctuations when sufficient data has not been provided for a certain job classifications.

(k) “Base Wage Rate” means the Prevailing hourly rate of wages less Fringe Benefits.

#### Section 4. Annual Surveys.

Surveys will be sent annually to the appropriate employers and employee organizations for purposes of determining the annual Prevailing hourly rate of wages.

(a) For the purposes of determining the annual Prevailing hourly rate of wages for the Building Construction trades, surveys will be conducted in September to collect total number of hours worked by classification of worker for the period of September 1<sup>st</sup> of the previous year through August 30<sup>th</sup> of the current year plus the most recent rate of pay which includes fringe benefits by classification of worker for the survey period.

(b) For the purposes of determining the annual Prevailing hourly rate of wages for the Heavy and Highway Construction trades, surveys will be conducted in September to collect total number of hours worked by classification of worker for the period of September 1<sup>st</sup> of the previous year through August 30<sup>th</sup> of the current year plus the most recent rate of pay which includes fringe benefits by classification of worker for the survey period.

#### Section 5. Survey Types.

There shall be two separate surveys constructed to determine the Prevailing hourly rate of wages, one survey for Building Construction and another for Heavy and Highway Construction as follows:

(a) A survey to determine the Prevailing hourly rate of wages for Building Construction shall be sent to employers and employee organizations engaged in

construction, reconstruction, improvement, enlargement, alteration or repair of public works projects or other large commercial projects.

(b) A survey to determine the Prevailing hourly rate of wages for Heavy and Highway Construction shall be sent to employers and employee organizations engaged in construction, reconstruction, improvement, enlargement, alteration or repair of major heavy and/or highway projects.

Section 6. Who is to be Surveyed.

For the purpose of determining the Prevailing hourly rate of wages, surveys shall collect data on wages paid to journeyman.

Section 7. Computation of Base Wage Rate.

The Base Wage Rate shall be computed according to the formula and considerations set forth below:

(a) The rate of wages paid in the locality (as defined in the Act) in which the work is to be performed, to the majority of those employed in that classification in construction in the locality similar to the proposed undertaking. A distinction shall be recognized, based on area practice within the State, between the following types of construction and job classifications typically associated with them:

- (i) Building Construction;
- (ii) Heavy and Highway Construction

(b) When fifty percent (50%) or more of those employed in a classification are paid at the same rate, that rate shall be the Base Wage Rate for that job classification.

(c) In the event that not more than fifty percent (50%) of employees in a classification are paid at the same rate, then the rate paid to the greater number shall be used. The greater number must be at least thirty percent (30%) of those employed.

(d) In the event that less than the thirty percent (30%) threshold of Subsection (c) above is not met, then an average rate shall be used.

(i) The average rate for each classification in a locality shall be the rate obtained by:

(a) Adding the hourly rates paid to all workers in the classification and dividing by the total number of such workers.

Ex: 
$$\text{AVERAGE RATE 1} = \frac{\text{TOTAL HOURLY RATES PAID}}{\text{TOTAL NUMBER OF WORKERS}}$$

(b) Dividing the total wages paid by the total number of hours worked in the classification.

Ex: 
$$\text{AVERAGE RATE 2} = \frac{\text{TOTAL DOLLAR WAGES PAID}}{\text{TOTAL HOURS WORKED}}$$

(c) Then the Base Wage Rate will be the average of AVERAGE RATE 1 and AVERAGE RATE 2:

Ex: 
$$\text{BASE WAGE RATE} = \frac{\text{AVERAGE RATE 1} + \text{AVERAGE RATE 2}}{2}$$

#### Section 8. Moving Average Wage Adjustment.

The Department, in establishing a Prevailing hourly rate of wages, shall provide for a Moving Average Wage Adjustment as follows:

(a) 
$$\frac{\text{WCLI}(\text{current year})}{\text{WCLI}(\text{previous year})} \times 100$$

#### Section 9. Fringe Benefits.

The Prevailing hourly rate of wages shall include bona fide fringe benefits set forth as follows:

- (a) Medical and dental payments or hospital care;
- (b) Pensions on retirement or death;
- (c) Disability benefits and life insurance;
- (d) Vacation and holiday pay;
- (e) Apprenticeship or other United States Bureau of Apprenticeship and Training approved training program or as approved by the department of transportation and federal highway administration;
- (f) Annuity or other 401K plans.

#### Section 10. Notice of Determination.

The Department shall provide notice of the determination of the Prevailing hourly rate of wages:

- (a) To the general public by publication in a newspaper of statewide circulation;
- (b) By certified mail to each state agency;
- (c) By certified mail to any employer who has filed a written request with the director;
- (d) By certified mail to any employee organization who has filed a written request with the director; and
- (e) By certified mail to any person who has filed a written request with the director.